65 pv

MT LEGISLATIVE HISTORY

Chapter 376 1987

Bill (H) 316 S_____ Original bill & hist. ___C

H. Committee on Judiciary S. Committee on Public Health, Welfare & Safety

Hearing Date(s)	JAN 28	✓C	Hearing Date(s)	MAR 20	✓C
	FEB 19	✓C		_____	___C
H. Approp	3-4	✓C		_____	___C
	_____	___C		_____	___C
Date Out	FEB 19	✓C		MAR 20	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report_____

1/21	FISCAL NOTE REQUESTED		
1/26	FISCAL NOTE RECEIVED		
2/06	HEARING		
2/14	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/19	2ND READING NOT PASSED	73	22

HB 314 INTRODUCED BY PATTERSON, ET AL.
REDUCE CLASS EIGHT PROPERTY TAX RATE FROM 11 PERCENT TO 6 PERCENT FOR TAX YEARS 1987-88

1/20	INTRODUCED		
1/20	REFERRED TO TAXATION		
1/21	FISCAL NOTE REQUESTED		
1/22	FISCAL NOTE RECEIVED		
2/12	HEARING		
3/16	TABLED IN COMMITTEE		

HB 315 INTRODUCED BY HOFFMAN, R., ET AL.
CHANGE ASSESSMENT DATE OF LIVESTOCK

1/20	INTRODUCED		
1/20	REFERRED TO TAXATION		
1/21	FISCAL NOTE REQUESTED		
1/22	FISCAL NOTE RECEIVED		
2/06	HEARING		
2/09	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/11	2ND READING PASSED	80	16
2/12	3RD READING PASSED	87	11
	TRANSMITTED TO SENATE		
2/13	REFERRED TO TAXATION		
3/18	HEARING		
3/20	ADVERSE COMMITTEE REPORT ADOPTED	45	2
3/20	RETURNED TO HOUSE NOT CONCURRED		

HB 316 INTRODUCED BY ADDY, ET AL.
PROVIDING FOR INVOLUNTARY COMMITMENT AND TREATMENT IN LOCAL COMMUNITY

1/20	INTRODUCED		
1/20	REFERRED TO JUDICIARY		
1/21	FISCAL NOTE REQUESTED		
1/28	HEARING		
1/28	FISCAL NOTE RECEIVED		
2/03	REVISED FISCAL NOTE REQUESTED		
2/09	REVISED FISCAL NOTE RECEIVED		
2/19	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/21	2ND READING PASSED	92	0
2/21	REREFERRED TO APPROPRIATIONS		
3/04	HEARING		
3/04	COMMITTEE REPORT--BILL PASSED		
3/06	2ND READING PASSED AS AMENDED	94	1
3/09	3RD READING PASSED	93	1
	TRANSMITTED TO SENATE		
3/10	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/20	HEARING		
3/23	COMMITTEE REPORT--BILL CONCURRED		
3/26	2ND READING CONCURRED	50	0
3/28	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE		
4/01	SIGNED BY SPEAKER		
4/02	SIGNED BY PRESIDENT		

4/02 TRANSMITTED TO GOVERNOR
4/07 SIGNED BY GOVERNOR
CHAPTER NUMBER 376 EFFECTIVE DATE: 10/01/87

HB 317 INTRODUCED BY GRADY
REQUIRE BICYCLES ON HIGHWAYS BE EQUIPPED WITH SLOW-MOVING VEHICLE SIGNS

1/20 INTRODUCED
1/20 REFERRED TO HIGHWAYS & TRANSPORTATION
2/03 HEARING
2/03 TABLED IN COMMITTEE

HB 318 INTRODUCED BY BRANDEWIE, ET AL.
CLASS TWENTY PROPERTY; SUBURBAN TRACTS

1/20 INTRODUCED
1/20 REFERRED TO TAXATION
1/21 FISCAL NOTE REQUESTED
1/28 FISCAL NOTE RECEIVED
2/12 HEARING
3/19 TABLED IN COMMITTEE

HB 319 INTRODUCED BY HANSEN, S., ET AL.
REQUIRE DRIVER TO YIELD TO PEDESTRIANS WITHIN CROSSWALKS AT INTERSECTION

1/20 INTRODUCED
1/20 REFERRED TO HIGHWAYS & TRANSPORTATION
2/03 HEARING
2/10 TABLED IN COMMITTEE

HB 320 INTRODUCED BY HANSEN, S., ET AL.
REQUIRING ONLY ONE COPY OF A TECHNICAL CODE TO BE FILED FOR PUBLIC INSPECTION

1/20 INTRODUCED
1/20 REFERRED TO LOCAL GOVERNMENT
2/02 HEARING
2/02 COMMITTEE REPORT--BILL PASSED
2/04 2ND READING PASSED 99 0
2/05 3RD READING PASSED 97 0

TRANSMITTED TO SENATE
2/10 REFERRED TO LOCAL GOVERNMENT
3/03 HEARING
3/04 COMMITTEE REPORT--BILL CONCURRED
3/07 2ND READING CONCURRED 47 0
3/10 3RD READING CONCURRED 49 0

RETURNED TO HOUSE
3/12 SIGNED BY SPEAKER
3/12 SIGNED BY PRESIDENT

3/13 TRANSMITTED TO GOVERNOR
3/16 SIGNED BY GOVERNOR
CHAPTER NUMBER 113 EFFECTIVE DATE: 10/01/87

HB 321 INTRODUCED BY BULGER
ALLOWING REPRODUCTION OF DRIVER RECORDS FOR PERPETUAL STORAGE
BY REQUEST OF DEPARTMENT OF JUSTICE

HOUSE BILL NO. 316

INTRODUCED BY ADDY, HAGER, KEENAN, PISTORIA, MAZUREK, STRATFORD, HANSEN, LORY, BULGER

IN THE HOUSE

JANUARY 20, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 19, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 20, 1987	PRINTING REPORT.
FEBRUARY 21, 1987	SECOND READING, DO PASS.
	ON MOTION, TAKEN FROM ENGROSSING AND REREFERRED TO COMMITTEE ON APPROPRIATIONS.
FEBRUARY 23, 1987	ENGROSSING REPORT.
MARCH 4, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
MARCH 5, 1987	PRINTING REPORT.
MARCH 6, 1987	SECOND READING, DO PASS AS AMENDED.
MARCH 7, 1987	ENGROSSING REPORT.
MARCH 9, 1987	THIRD READING, PASSED. AYES, 93; NOES, 1.
	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 10, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY.
MARCH 23, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 26, 1987	SECOND READING, CONCURRED IN.

MARCH 28, 1987	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.
	RETURNED TO HOUSE.
	IN THE HOUSE
MARCH 30, 1987	RECEIVED FROM SENATE.
	SENT TO ENROLLING.

House BILL NO. 316

INTRODUCED BY Hager Keenan Pistoria Stratford Hollandsworth Story

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR INVOLUNTARY COMMITMENT AND TREATMENT IN THE LOCAL COMMUNITY OF PERSONS WHO ARE MENTALLY ILL; AND AMENDING SECTIONS 53-21-102, 53-21-106, 53-21-115, 53-21-116, 53-21-120, 53-21-121 THROUGH 53-21-123, AND 53-21-126 THROUGH 53-21-128, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-21-102, MCA, is amended to read:

"53-21-102. Definitions. As used in this part, the following definitions apply:

(1) "Board" or "mental disabilities board of visitors" means the mental disabilities board of visitors created by 2-15-211.

(2) "Court" means any district court of the state of Montana.

(3) "Department" means the department of institutions provided for in Title 2, chapter 15, part 23.

(4) "Emergency situation" means a situation in which any person is in imminent danger of death or serious bodily harm from the activity of a person who appears to be seriously mentally ill.

(5) "Friend of respondent" means any person willing and able to assist a mentally ill person, a person alleged to be mentally ill, a seriously mentally ill person, or a person alleged to be seriously mentally ill in dealing with legal proceedings, including consultation with legal counsel and others. The friend of respondent may be the next of kin, the person's conservator or legal guardian, if any, a representative of a charitable or religious organization, or any other person appointed by the court to perform the functions of a friend of respondent set out in this part. Only one person may at any one time be the friend of respondent within the meaning of this part. In appointing a friend of respondent, the court shall consider the preference of the respondent. The court may at any time, for good cause shown, change its designation of the friend of respondent.

~~(5)~~(6) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on an individual's cognitive or volitional functions.

~~(6)~~(7) "Mental health facility" or "facility" means a public hospital or a licensed private hospital which is equipped and staffed to provide treatment for persons with mental disorders or a community mental health center or any mental health clinic or treatment center approved by the department. No correctional institution or facility or jail

INTRODUCED BILL
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is a mental health facility within the meaning of this part.

(8) "Mentally ill" means suffering from a mental disorder which has not resulted in self-inflicted injury or injury to others or the imminent threat thereof but which:

(a) has resulted in behavior that creates serious difficulty in protecting the person's life or health even with the available assistance of family, friends, or others;

(b) is treatable, with a reasonable prospect of success and consistent with the least restrictive course of treatment as provided in 53-21-127(3), at or through the facility to which the person is to be committed;

(c) has deprived the person of the capacity to make an informed decision concerning treatment;

(d) has resulted in the person's refusing or being unable to consent to voluntary admission for treatment; and

(e) poses a significant risk of the person's becoming seriously mentally ill, within the meaning of this section, or will, if untreated, predictably result in further serious deterioration in the mental condition of the person. Predictability may be established by the patient's medical history.

~~(7)~~(9) "Next of kin" shall include but need not be limited to the spouse, parents, adult children, and adult brothers and sisters of a person.

~~(8)~~(10) "Patient" means a person committed by the court

for treatment for any period of time or who is voluntarily admitted for treatment for any period of time.

~~(9)~~(11) "Peace officer" means any sheriff, deputy sheriff, marshal, policeman, or other peace officer.

~~(10)~~(12) "Professional person" means:

(a) a medical doctor; or

(b) a person who has been certified, as provided for in 53-21-106, by the department.

~~(11)~~(13) "Reasonable medical certainty" means reasonable certainty as judged by the standards of a professional person.

~~(12)~~(14) "Respondent" means a person alleged in a petition filed pursuant to this part to be mentally ill or seriously mentally ill.

~~(13) "Friend of respondent" means any person willing and able to assist a seriously mentally ill person or person alleged to be seriously mentally ill in dealing with legal proceedings, including consultation with legal counsel and others. The friend of respondent may be the next of kin, the person's conservator or legal guardian, if any, representatives of a charitable or religious organization, or any other person appointed by the court to perform the functions of a friend of respondent set out in this part. Only one person may at any one time be the friend of respondent within the meaning of this part. In appointing a~~

~~friend--of--respondent,--the--court---shall---consider---the preference-of-the-respondent.-The-court-may-at-any-time,-for good--cause--shown,--change-its-designation-of-the-friend-of respondent.~~

~~(14)~~(15) "Seriously mentally ill" means suffering from a mental disorder which has resulted in self-inflicted injury or injury to others or the imminent threat thereof or which has deprived the person afflicted of the ability to protect his life or health. For this purpose, injury means physical injury. No person may be involuntarily committed to a mental health facility or detained for evaluation and treatment because he is an epileptic, mentally deficient, mentally retarded, senile, or suffering from a mental disorder unless the condition causes him to be seriously mentally ill within the meaning of this part.

~~(15)~~(16) "State hospital" means the Montana state hospital."

Section 2. Section 53-21-106, MCA, is amended to read:

"53-21-106. Certification of professional persons. (1) The department shall certify professional persons as defined in 53-21-102~~(10)(b)~~(12)(b) for the purpose of this part.

(2) The department, with reference to recognized national standards in the field of mental health, shall adopt standards and rules governing the certification of professional persons ~~as-defined-in-53-21-102(10)(b)~~.

(3) The rules for certification must address but are not limited to:

(a) the type of education that an individual has received, including degrees;

(b) the type of experience or training received by the individual;

(c) continuing education, training, instruction, and work experience necessary to maintain certification;

(d) an examination instrument to be used to determine an individual's proficiency and understanding of mental health laws, diagnosis, and treatment procedures;

(e) the procedure for categorical certification qualifying the level of professional authority and responsibility of an individual; and

(f) specific procedures for certification, recertification, and revocation of certification."

Section 3. Section 53-21-115, MCA, is amended to read:

"53-21-115. Procedural rights. In addition to any other rights which may be guaranteed by the constitution of the United States and of this state, by the laws of this state, or by this part, any person who is involuntarily detained or against whom a petition is filed pursuant to this part has the following rights:

(1) the right to notice reasonably in advance of any hearing or other court proceeding concerning him;

(2) the right to know, in advance of any hearing, the names and addresses of any witnesses who will testify in support of the petition;

~~(2)~~(3) the right in any hearing to be present, to offer evidence, and to present witnesses in any proceeding concerning him;

~~(3)~~(4) the right in any hearing to cross-examine witnesses;

~~(4)~~(5) the right to be represented by counsel;

~~(5)~~(6) the right to remain silent;

~~(6)~~(7) the right in any hearing to be proceeded against according to the rules of evidence applicable to civil matters generally;

~~(7)~~(8) the right to view and copy all petitions on file with the court concerning him;

~~(8)~~(9) the right to be examined by a professional person of his choice when such professional person is willing and reasonably available;

~~(9)~~(10) the right to be dressed in his own clothes at any hearing held pursuant to this part; and

~~(10)~~(11) the right to refuse any but lifesaving medication for up to 24 hours prior to any hearing held pursuant to this part."

Section 4. Section 53-21-116, MCA, is amended to read:

"53-21-116. Right to be present at hearing or trial --

appointment of counsel. The person alleged to be mentally ill or seriously mentally ill has the right to be present at any hearing or trial. If he has no attorney, the judge shall appoint one to represent him at either the hearing or the trial, or both, who shall be compensated from the public funds of the county where the respondent resides."

Section 5. Section 53-21-120, MCA, is amended to read:

"53-21-120. Detention to be in least restrictive environment -- preference for mental health facility -- court relief -- prehearing detention of mentally ill person prohibited. (1) A person detained pursuant to this part shall be detained in the least restrictive environment required to protect the life and physical safety of the person detained or members of the public; in this respect, prevention of significant injury to property may be considered.

(2) Whenever possible, a person detained pursuant to this part shall be detained in a mental health facility and in the county of residence. If the person detained demands a jury trial and trial cannot be held within 7 days, the individual may be sent to the state hospital until time of trial if arrangements can be made to return him to trial. Such trial must be held within 30 days. The county of residence shall pay the cost of travel and professional services associated with the trial. No person may be

detained in any hospital or other medical facility which is not a mental health facility unless such hospital or facility has agreed in writing to admit the person.

(3) A person may be detained in a jail or other correctional facility only if no mental health facility is available or if the available mental health facilities are inadequate to protect the person detained and the public. As soon as a mental health facility becomes available or the situation has changed sufficiently that an available mental health facility is adequate for the protection of the person detained and the public, then the detained person shall be transferred from the jail or correctional facility to the mental health facility.

(4) A person detained prior to involuntary commitment may apply to the court for immediate relief with respect to the need for detention or the adequacy of the facility being utilized to detain.

(5) No detention may be ordered under this part for a person concerning whom a petition has been filed under 53-21-121(1)(b)."

Section 6. Section 53-21-121, MCA, is amended to read:

"53-21-121. Petition for commitment -- contents of -- notice of. (1) The county attorney, upon the written request of any person having direct knowledge of the facts, may file a petition with the court:

(a) alleging that there is a person within the county who is seriously mentally ill and requesting that the person be committed to a mental health facility for a period of no more than 3 months; or

(b) alleging that there is a person within the county who is mentally ill and requesting that the person be committed to a mental health facility for a period of no more than 30 days.

(2) The petition shall contain:

(a) the name and address of the person requesting the petition and his interest in the case;

(b) the name of the respondent and, if known, the address, age, sex, marital status, and occupation of the respondent;

(c) the purported facts supporting the allegation of mental illness;

(d) the name and address of every person known or believed to be legally responsible for the care, support, and maintenance of the person for whom evaluation is sought;

(e) the name and address of the person's next of kin to the extent known to the county attorney and the person requesting the petition;

(f) the name and address of any person whom the county attorney believes might be willing and able to be appointed as friend of respondent;

(g) the name, address, and telephone number of the attorney, if any, who has most recently represented the person for whom evaluation is sought; if there is no attorney, there shall be a statement as to whether to the best knowledge of the person requesting the petition the person for whom evaluation is sought is indigent and therefore unable to afford the services of an attorney; and

(h) a statement of the rights of the respondent which shall be in conspicuous print and identified by a suitable heading.

(3) Notice of the petition shall be hand-delivered to the respondent and to his counsel on or before the initial appearance of the respondent before the judge or justice of the peace. Notice of the petition and the order setting the date and time of the hearing and the names of the respondent's counsel, professional person, and friend of respondent shall be hand-delivered or mailed to the person or persons legally responsible for care, support, and maintenance of the respondent, the next of kin identified in the petition, and any other person identified by the county attorney as a possible friend of respondent other than the one named as the friend of respondent. The notice may provide, other than as to the respondent and his counsel, that no further notice will be given unless written request is filed with the clerk of court."

Section 7. Section 53-21-122, MCA, is amended to read:

"53-21-122. Petition for commitment -- filing of -- initial hearing on. (1) The petition shall be filed with the clerk of court who shall immediately notify the judge.

(2) (a) If a judge is available, he shall consider the petition, and if he finds no probable cause, it shall be dismissed.

(b) (i) If the judge finds probable cause, counsel shall be immediately appointed for the respondent, and the respondent shall be brought forthwith before the court with his counsel. The respondent shall be advised of his constitutional rights, his rights under this part, and the substantive effect of the petition. The respondent may at this appearance object to the finding of probable cause for filing the petition.

(ii) The judge shall:

(A) appoint a professional person; and

(B) appoint a friend of respondent; and

(C) set a date and time for the hearing on the petition, which may not exceed 5 days, including weekends and holidays, unless the fifth day falls upon a weekend or holiday and unless additional time is requested on behalf of the respondent.

(iii) The desires of the respondent shall be taken into consideration in the appointment of the friend of respondent

and in the confirmation of the appointment of the attorney.

(3) If a judge is not available in the county, the clerk shall notify a resident judge by telephone and read the petition to him. If the judge finds no probable cause, the petition shall be dismissed. If the judge finds probable cause, he shall cause the clerk to issue an order appointing counsel and a professional person and setting a date and time for the hearing on the petition, which may not exceed 5 days, including weekends and holidays, unless the fifth day falls upon a weekend or holiday and unless additional time is requested on behalf of the respondent. The order shall also direct that the respondent be brought forthwith before a justice of the peace with his counsel to be advised of his constitutional rights, his rights under this part, and the contents of the clerk's order, as well as to furnish him with a copy. The justice of the peace shall ascertain the desires of the respondent with respect to the appointment of his counsel, and this shall be immediately communicated to the resident judge. The resident judge may appoint other counsel, may confer with respondent's counsel and the county attorney in order to appoint a friend of respondent, and may do all things necessary through the clerk of court by telephone as if the resident judge were personally present."

Section 8. Section 53-21-123, MCA, is amended to read:

"53-21-123. Examination of respondent following

initial hearing -- recommendation of professional person. (1) Following the initial hearing, whether before a judge or justice of the peace, the respondent shall be examined by the professional person without unreasonable delay. The examination may not exceed a period of 4 hours. The professional person shall immediately notify the county attorney of his findings in person or by phone and shall make a written report of his examination to the court, with copies to the respondent's attorney and the county attorney.

(2) The following action shall be taken based on the professional person's findings:

(a) If he recommends dismissal, he shall additionally notify counsel and the respondent, if he has been detained, shall be released and the petition dismissed. However, the county attorney may, upon good cause shown, request the court to order an additional, but no more than one, examination by a different professional person for a period of no more than 4 hours.

(b) If he finds that commitment proceedings should continue, the hearing shall be held as scheduled.

(3) The court may not order further evaluation pending the hearing unless sound medical reasons require additional time for a complete evaluation. Such reasons shall be set forth in the order, along with the amount of additional time needed."

Section 9. Section 53-21-126, MCA, is amended to read:

"53-21-126. Trial or hearing on petition. (1) The respondent shall be present unless his presence has been waived as provided in 53-21-119(2), and he shall be represented by counsel at all stages of the trial. The trial shall be limited to the determination of whether or not the respondent is mentally ill or seriously mentally ill within the meaning set forth in this part.

(2) The standard of proof in any hearing held pursuant to this section is proof beyond a reasonable doubt with respect to any physical facts or evidence and clear and convincing evidence as to all other matters, except that mental disorders shall be evidenced to a reasonable medical certainty. Imminent threat of self-inflicted injury or injury to others shall be evidenced by overt acts, sufficiently recent in time as to be material and relevant as to the respondent's present condition.

(3) The professional person appointed by the court shall be present for the trial and subject to cross-examination. The trial shall be governed by the Montana Rules of Civil Procedure except that, if tried by a jury, at least two-thirds of the jurors must concur on a finding that the respondent is seriously mentally ill. The written report of the professional person that indicates the professional person's diagnosis may be attached to the

petition, but any matter otherwise inadmissible, such as hearsay matter, is not admissible merely because it is contained in the report. The court may order the trial closed to the public for the protection of the respondent.

(4) The professional person may testify as to the ultimate issue of whether the respondent is mentally ill or seriously mentally ill. ~~This--testimony--is-insufficient unless-accompanied-by-evidence-from-the-professional--person or-others-that:~~

~~(a)--the---respondent---is---suffering--from--a--mental disorder;-and~~

~~(b)--the-mental-disorder-has-resulted-in-self-inflicted injury-or-injury-to-others-or-the-imminent-threat-thereof-or has-deprived-the-person-afflicted-of-the-ability-to--protect his--life-or-health.~~ Testimony from a professional person or others must be received on each element of the definition of mentally ill or seriously mentally ill as those terms are defined in 53-21-102.

(5) The court, upon the showing of good cause and when it is in the best interests of the respondent, may order a change of venue."

Section 10. Section 53-21-127, MCA, is amended to read:

"53-21-127. Posttrial disposition. (1) If, upon trial, it is determined that the respondent is not mentally ill or

seriously mentally ill within the meaning of this part, he shall be discharged and the petition dismissed.

(2) (a) If it is determined in a proceeding under 53-21-121(1)(a) that the respondent is seriously mentally ill within the meaning of this part, the court shall hold a posttrial disposition hearing. The disposition hearing shall be held within 5 days (including Saturdays, Sundays, and holidays unless the fifth day falls on a Saturday, Sunday, or holiday), during which time the court may order further evaluation and treatment of the respondent. At the conclusion of the disposition hearing, the court shall:

(i) commit the respondent to a facility for a period of not more than 3 months;

(ii) order the respondent to be placed in the care and custody of his relative or guardian or some other appropriate place other than an institution;

(iii) order outpatient therapy; or

(iv) make some other appropriate order for treatment.

(b) No treatment ordered pursuant to this subsection may affect the respondent's custody for a period of more than 3 months.

(c) In determining which of the above alternatives to order, the court shall choose the least restrictive alternatives necessary to protect the respondent and the public and to permit effective treatment. The court shall

consider and shall describe in its order what alternatives for treatment of the respondent are available, what alternatives were investigated, and why the investigated alternatives were not deemed suitable. The court shall enter into the record a detailed statement of the facts upon which it found the respondent to be seriously mentally ill.

(3) If it is determined in a proceeding under 53-21-121(1)(b) that the respondent is mentally ill within the meaning of this part, the court shall order that he receive treatment for a period of no more than 30 days. The court shall choose the least restrictive course of treatment reasonably available to the respondent. The court must make a separate finding, setting forth the reason therefor if the order includes a requirement of inpatient treatment or involuntary medication. The court may not order inpatient treatment in the Montana state hospital at Warm Springs under this subsection (3). The respondent may not be required to pay for court-ordered treatment unless he is financially able.

(4) Before ordering any treatment for a respondent found to be mentally ill under subsection (3), the court shall make findings of fact that treatment appropriate to the needs of the respondent is available. The court shall also indicate on the order the name of the facility that is to be responsible for the management and supervision of the

respondent's treatment. No person may use physical force to administer medication. A court may use any legal means to enforce an order to take medication, including immediate detention not to exceed 72 hours, until the mentally ill person can be returned to the court."

Section 11. Section 53-21-128, MCA, is amended to read:

"53-21-128. Petition for extension of commitment period. (1) To extend the 3-month period of detention provided for in 53-21-127(2), the procedure set forth in this subsection (1) must be followed:

(a) Not less than 2 calendar weeks prior to the end of the 3-month period ~~of---detention---provided---for---in 53-21-127(2)~~, the professional person in charge of the patient at the place of detention may petition the court for extension of the detention period. The petition shall be accompanied by a written report and evaluation of the patient's mental and physical condition. The report shall describe any tests and evaluation devices which have been employed in evaluating the patient, the course of treatment which has been undertaken for the patient, and the future course of treatment anticipated by the professional person.

(b) Upon the filing of the petition, the court shall give written notice of the filing of the petition to the patient, his next of kin, if reasonably available, the

friend of respondent appointed by the court, and the patient's counsel. If any person so notified requests a hearing prior to the termination of the previous detention authority, the court shall immediately set a time and place for a hearing on a date not more than 10 days from the receipt of the request and notify the same people, including the professional person in charge of the patient. If a hearing is not requested, the court shall enter an order of commitment for a period not to exceed 6 months.

(c) Procedure on the petition for extension when a hearing has been requested shall be the same in all respects as the procedure on the petition for the original 3-month commitment except the patient is not entitled to trial by jury. The hearing shall be held in the district court having jurisdiction over the facility in which the patient is detained unless otherwise ordered by the court. Court costs and witness fees, if any, shall be paid by the county that paid the same costs in the initial commitment proceedings.

(d) If upon the hearing the court finds the patient not seriously mentally ill within the meaning of this part, he shall be discharged and the petition dismissed. If the court finds that the patient continues to suffer from serious mental illness, the court shall order commitment, custody in relatives, outpatient therapy, or other order as

set forth in 53-21-127(2) except that no order may affect his custody for more than 6 months. In its order, the court shall describe what alternatives for treatment of the patient are available, what alternatives were investigated, and why the investigated alternatives were not deemed suitable. The court shall not order continuation of an alternative which does not include a comprehensive, individualized plan of treatment for the patient. A court order for the continuation of an alternative shall include a specific finding that a comprehensive, individualized plan of treatment exists.

(2) To extend the period of treatment provided for in 53-21-127(3), the procedure set forth in this subsection (2) must be followed:

(a) Not less than 7 days prior to the end of the 30-day period of treatment ordered under 53-21-127(3), the professional person in charge of the respondent's care may petition the court for extension of the treatment period. The petition must be accompanied by a written report and evaluation of the respondent's mental and physical condition. The report shall describe any tests and evaluation devices which have been employed in evaluating the respondent, the course of treatment which has been undertaken for the respondent, and the future course of treatment anticipated by the professional person.

(b) Upon the filing of the petition, the court shall give written notice of the filing of the petition to the respondent, his next of kin, if reasonably available, the friend of respondent appointed by the court, if any, and the respondent's counsel. If any person so notified requests a hearing prior to the termination of the previous detention authority, the court shall immediately set a time and place for a hearing on a date not more than 5 days from the receipt of the request and notify the same people, including the professional person in charge of the respondent. If a hearing is not requested, the court shall enter an order of treatment for a period not to exceed 30 days.

(c) Procedure on the petition for extension when a hearing has been requested shall be the same in all respects as the procedure on the petition under 53-21-121(1)(b) for the original treatment except that the respondent is not entitled to trial by jury. The hearing shall be held in the district court for the county in which the treatment is being supervised unless otherwise ordered by the court. Court costs and witness fees, if any, shall be paid by the county that paid the same costs in the initial proceedings.

(d) If upon the hearing the court finds the respondent not mentally ill within the meaning of this part, the petition shall be dismissed. If the court finds that the respondent continues to be mentally ill, the court shall

order treatment for the respondent for a period not to exceed 30 days. In its order, the court shall describe what alternatives for treatment of the respondent are available, what alternatives were investigated, and why the investigated alternatives were not considered suitable. The court may not order continuation of an alternative which does not include a comprehensive, individualized plan of treatment for the respondent. A court order for the continuation of an alternative shall include a specific finding that a comprehensive, individualized plan of treatment exists.

~~(2)~~(3) Further extensions of the period of detention provided for in 53-21-127(2) may be obtained under the same procedure described in subsection (1) of this section except that the patient's custody may not be affected for more than 1 year without a renewal of the commitment under the procedures set forth in subsection (1) of this section, including a statement of the findings required by subsection (1).

(4) The period of treatment provided for in 53-21-127(3) may be extended only once under this section."

NEW SECTION. Section 12. Establishment of treatment plan for mentally ill person. (1) A person ordered to receive treatment under 53-21-127(3) must have an individualized treatment plan.

(2) The treatment plan must be developed by appropriate professional persons and must be implemented no later than 5 days after the treatment order has been made.

(3) The treatment plan must contain:

(a) a statement of the nature of the specific problems and specific needs of the patient;

(b) a statement of the least restrictive treatment conditions necessary to achieve the purposes of commitment;

(c) a description of intermediate and long-range treatment goals, with a projected timetable for their attainment;

(d) a statement and rationale for the plan of treatment for achieving these intermediate and long-range goals; and

(e) criteria for release to less restrictive treatment conditions and criteria for discharge.

(4) The treatment plan may include prescription by a physician of reasonable and appropriate medication that is consistent with accepted medical standards.

NEW SECTION. Section 13. Compliance with treatment plan. If the respondent fails to comply or clearly refuses to comply with all or part of the treatment plan, the professional person appointed under 53-21-122 shall make all reasonable efforts to solicit the respondent's compliance. Such effort must be documented and reported to the court

with a recommendation to the court as to whether the respondent should:

(1) have his case dismissed; or

(2) be given a supplemental hearing.

NEW SECTION. Section 14. Supplemental hearing. (1) If the respondent requests a hearing to prove he has complied with the treatment plan as provided in [section 13], the hearing must be scheduled within 5 days. The respondent, his attorney, the friend of respondent, and the designated professional person must be notified at least 48 hours in advance.

(2) At the hearing, the court must determine whether the respondent has failed to comply with the treatment plan established pursuant to [section 12].

(3) (a) If the court determines that the respondent has failed or refused to comply with the treatment plan, it may order the respondent to comply with the treatment plan for the remainder of the 30-day period.

(b) If the respondent no longer meets the definition of mentally ill, the court shall discharge the respondent from the order and dismiss the case.

NEW SECTION. Section 15. Codification instruction. Sections 12 through 14 are intended to be codified as an integral part of Title 53, chapter 21, part 1, and the provisions of Title 53, chapter 21, part 1, apply to

sections 12 through 14.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB316, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:
An act providing for involuntary commitment and treatment in the local community of persons who are mentally ill: and amending sections 53-21-102, 53-21-106, 53-21-115, 53-21-116, 53-21-120, 53-21-121 through 53-21-123, and 53-21-126 through 53-21-128, MCA.

ASSUMPTIONS:
1. According to the State Council of Regional Mental Health Centers, 20 patients would be committed under this proposed legislation.
2. There would be a 30-day commitment and a 30-day extension for a total of 60 days of treatment for 20 patients.
3. The patient would be committed to 5 days of inpatient care for a total of 100 per year at the rate of $105.93/hr. for psychiatrist services.
4. The patient would be seen once per week for outpatient therapy for 1 hour at the rate of $56.00/hr.
5. The patient would be seen five times per week (four hours per day) for 7 weeks for day treatment services at $7.07/hr.
6. County or other local resources would provide for five days for acute psychiatric care for the 20 patients. The fiscal impact will be charged to the patient, 3rd party insurer, or the county..
7. The impact on commitments to the Montana State Hospital can not be ascertained.

FISCAL IMPACT:

Expenditures:	FY88	FY89
Inpatient Care	$ 10,593	$ 10,593
Day Treatment	19,796	19,796
Outpatient	7,840	7,840
Total General Fund	$ 38,229	$ 38,229

For each patient not committed to the Montana State Hospital the variable cost per patient per day should be saved. The variable costs is $6.61 per day.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:
The five days of acute psychiatric care for the 20 patients will impact the counties or other local resources by $22,900 each year of the biennium.

David L Hunter DATE 1/22/87
DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

Addy DATE 1/28/87
KELLY ADDY, PRIMARY SPONSOR

Fiscal Note for HB316, as introduced.

HB 316

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB316, as introduced.
REVISED FISCAL NOTE

DESCRIPTION OF PROPOSED LEGISLATION:
An act providing for involuntary commitment and treatment in the local community of persons who are mentally ill: and amending sections 53-21-102, 53-21-106, 53-21-115, 53-21-116, 53-21-120, 53-21-121 through 53-21-123, and 53-21-126 through 53-21-128, MCA.

ASSUMPTIONS:
1. According to the State Council of Regional Mental Health Centers, 30 patients would be committed under this proposed legislation. One-sixth, or 6 would be private pay patients according to the State Council of Regional Mental Health Centers. Twenty-four would be medicaid eligible.
2. There would be a 30-day commitment and a 30-day extension for a total of 60 days of treatment for 24 Medicaid eligible clients.
3. These Medicaid eligible patients would be initially committed, as part of the 30-day commitment, to inpatient care. Of the 24 Medicaid eligible clients, 16 would be determined eligible for inpatient care. Medicaid will not pay for inpatient care which, though court ordered, has not been determined to be medically necessary.
4. Though denied for inpatient care, the 8 Medicaid eligibles will be eligible for outpatient therapy and day treatment.
5. The average length of inpatient psych care is 7.4 days. The cost per day is $300. While receiving inpatient psych care, the patient would receive 1 hour of psychiatrists services per day at the rate of $105.93/hour.
6. The patient would be seen once per week for outpatient therapy for 1 hour at the rate of $56.00/hr.
7. The patient would be seen for day treatment five times per week (four hours per day) for 6 weeks four days at $7.07/hr.
8. The impact on commitments to the Montana State Hospital can not be ascertained.
9. The care for eight medicaid patients would be determined not medically necessary even though court ordered. The cost of this care would be borne by local governments.

FISCAL IMPACT:	FY88	FY89
Revenue	$ 0	$ 0
Expenditures	80,546	80,546
Net Effect	($80,546)	($80,546)
General Fund	$25,042	$23,423
Federal Funds	55,504	57,123
TOTAL	$80,546	$80,546

David L. Hunter DATE 2/9/87
DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

Kelly Addy DATE 2/10/87
KELLY ADDY, PRIMARY SPONSOR

Fiscal Note for HB316, as introduced.
REVISED FISCAL NOTE

HB 316
42

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:
Eight Medicaid eligible clients would have their inpatient care denied because, though court ordered, the care was not medically necessary. The cost of this care, plus psychiatrists services for these eight, would amount to $24,031.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:
This bill includes a definition of mentally ill that could include those persons dually diagnosed as mentally ill and developmentally disabled. The definition of seriously mentally ill (current law 53-21-102(14), MCA) includes an exclusion for such individuals. If dually-diagnosed persons are committed under the proposed legislation, expenditures and general fund costs would increase by $89,976 in FY88 and $44,988 in FY89.

Form CS-32
Rev. 1985

STATUS SHEET

50th LEGISLATIVE SESSION

JUDICIARY COMMITTEE

HOUSE BILL NUMBER	ENTERED COM. DATE	DATE CON-SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON-CURRED IN DATE	BE NOT CON-CURRED IN DATE	BE CON-CURRED IN AMENDED DATE	BE NOT CONCURREI IN AS AMENDED DATE
240	1/27/87	1/27/87	2/19/87			2/19/87					
241	1/16/87	1/28/87	2/12/87			2/12/87					
256		2/12/87	2/14/87			2/14/87					
262	1/17/87	2/5/87	2/12/87	2/12/87							
267	1/17/87	1/29/87	1/29/87	1/29/87							
268	1/17/87	2/3/87	2/3/87 tabled								
283	1/19/87	1/30/87				2/5/87					
284	1/19/87	1/30/87	2/19/87			2/19/87					
286	1/19/87	2/6/87				2/23/87					
291	1/19/87	1/27/87	Referred to Highways Committee.								
301		2/5/87	failed to meet deadline								
305	1/20/87	2/5/87	2/6/87	2/6/87							
309	1/20/87	1/29/87	2/3/87			2/3/87					
316	1/20/87	1/28/87				2/19/87					

e a separate sheet for Senate Bills, House Bills, and Resolutions.

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

January 28, 1987

The meeting of the Judiciary Committee was called to order by Chairman Earl Lory on January 28, 1987, at 8:00 a.m. in Room 312-D of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL NO. 241: Rep. Spaeth, District No. 84, sponsor, stated this is a major bill dealing with wrongful discharge in the state of Montana. Wrongful discharge is one of the most important problems facing the state and this legislature. It is also important as far as the operation of the business community that exists in this state. We can handle a problem that does not need to exist. He explained that the cause of wrongful discharge is basically created. There is nothing on the statute books dealing with wrongful discharge other than the statutes dealing with employment by will and do not apply anymore. HB 241 establishes a cause of action and to set standards and exemptions. It is reasonable tort reform and deals with a problem in a reasonable sort of way. The State of Montana needs to chart new ground in this area because we have different and new problems in this state.

PROPONENTS: BARRY L. YORK, attorney, Montana Association of Defense Counsel, explained that historically, the employment relationship in the United States has been "at-will". The employer and the employee both had the right to terminate the relationship for "...a good reason, a bad reason, or no reason at all". This rule is codified in Section 39-2-503, MCA. The difficulty with the current state of the law is that there are no standards upon which an employer can rely when contemplating the termination of an employee. The increasing number of wrongful termination cases at the district court level is an eye-opener. He stated that the bill brings some rational standards to an area of the law that currently has none. He submitted written testimony. (Exhibit A).

JIM ROBISCHON, Montana Liability Coalition, supported adoption of HB 241 as it stands at the present time. The employer's decision to terminate an employee for a legitimate business reason should not subject to subsequent ratification by a jury at any time. This bill represents a moderation or compromise of that position which was the

CONSIDERATION OF HOUSE BILL NO. 112: Rep. Addy, District No. 94, sponsor, stated HB 112 establishes programs in each judicial district to provide mandatory arbitration of wrongful discharge cases, granting rulemaking authority. He explained the purpose is to prevent persons from filing, in court, a civil action for wrongful discharge without first attempting to reach a settlement of the dispute through arbitration.

There were no proponents.

OPPONENTS: BARRY L. YORT, representing Mountain Bell, opposed HB 112.

ANNE MACKINTRYRE, Human Rights Commission, stated she did not oppose the merits of the bill, but it needed technical corrections in the area of human rights.

There were no questions on HB 112.

Rep. Addy closed the hearing.

CONSIDERATION OF HOUSE BILL NO. 316: Rep. Addy, sponsor, District No. 94, explained that this is an act providing for involuntary commitment and treatment in the local community of persons who are mentally ill. He stated the bill addresses a serious problem dealing with the seriously mentally ill people. If it is determined, in the proceeding, that the respondent is mentally ill within the meaning of this act, the court shall order that he receive treatment for a period of no more than 30 days. The court shall choose the least restrictive course of treatment reasonably available to the respondent. The court must make a separate finding, setting forth the reason therefore, if the order includes a requirement of inpatient treatment or involuntary medication. The court may not order inpatient treatment in the Montana State Hospital at Warm Springs under this subsection (3). The respondent may not be required to pay for court-ordered treatment unless he is financially able. The new section 14 grants a supplemental hearing and the hearing must be scheduled within five days. New section 15, gives codification instructions.

PROPONENTS: STEVE WALDRON, Mental Health Centers, Helena, presented an article from the STATE GOVERNMENT NEWS, dated August 1986, titled, THE HOMELESS-WHO'S TO BLAME? (Exhibit A). He stated that under the present law, a mentally ill person must be a clear and imminent danger to themselves or to others in order to be involuntarily committed for treatment. The law requires that the mentally ill individual must have committed a recent and overt action to be classed as seriously mentally ill and to be committed for treatment.

A mentally ill person, who needs treatment and is very sick and deteriorating, often does not meet the current legal definition to be committed for treatment. For instance, a suicidal person who is under voluntary outpatient treatment for clinical depression may not meet the current definition to be committed unless they have done a recent and overt act. The proposed law changes the current commitment law allowing the court to commit a mentally ill person to only a community facility for a very limited time with the intention of getting the person stabilized and able to function in the community. He strongly urged support for HB 316 and submitted written testimony. (Exhibit B).

NANCY ADAMS, Montana House and works with the Task Force for the mentally ill, stated that this is a fair bill and it obtains many protections for the mentally ill patients rights.

FLORENCE FOSTER, from Helena, stated that the patient must choose to get help currently and sometimes the patient goes off his medication and cannot choose to get help. This bill will help patients get help when they need it.

JOHN MCREA, Independent Living Counselor, stated that when professionals are unable to help under the current law, this bill enables clients to get help especially in independent living situations.

TINA SMITH, Adult Social Worker, stated that problems arise when mentally ill patients do not take their medication and this bill helps the individuals during this time of crisis.

JACQUE THILEN, Montana House, supported this bill.

GLENN BIRGENHEIER, patient, stated that if he would not have had the medication when he needed it, he would not be here today. He supported the legislation.

HELEN SAMPAL, Miles City, stated that this is essential legislation and urged support.

ED KENNEDY, Montana House, Helena, pointed out that we need this law. He stated that he resisted his medication for years and finally, while very depressed, got in a car accident. He supported the bill because, he said, this is an effort to keep me and my friends alive.

PHILIP PAVERS, Mental Health Expert, urged attention and support for the bill.

SUZANNE TAUNT. Montana Alliance for the Mentally Ill, pointed out that better care and services are needed in this area and urged that HB 316 be passed as it stands.

CLIFFORD MURPHY, Co-Chairman of the Public Policy Committee and a member of the Mental Health Association of Montana, stated that the bill is a greatly improved version of the last session and urged support.

JEANNE PORTER, Mental Health Volunteer, supported the legislation.

RICHARD EMERY, Clinical Psychologist, stated that the current law will not let a person be helped until they impose danger to others and this bill prevents much suffering of the mentally ill patients.

DONALD L. HARR, Billings, stated he felt the bill allowed for the protection of the individual who is in need of treatment.

KELLY MOORE, Board of Visitors Director, supported the legislation.

TOM POSEY, Executive Director of the National Alliance of Mental Health, stated that if this bill can save one life, it deserved support.

There were no further proponents and no opponents.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 316: Rep. Rapp-Svrcek stated that he counted at least five who made reference to the seriously mentally ill persons and asked Mr. Waldron, why that is. Mr. Waldron stated that the law has a definition for seriously mentally ill and the only time we use that phrase is when we are going to court.

Rep. Hannah asked Mr. Waldron who brings about a hearing and he answered that the county attorney does.

Rep. Addy closed the hearing on HB 316.

ADJOURNMENT: There being no further business to come before the committee, the hearing was adjourned at 11:48 a.m.

Earl Lory

EARL LORY, Chairman

DAILY ROLL CALL

JUDICIARY COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date January 28, 1987

NAME	PRESENT	ABSENT	EXCUSED
JOHN MERCER (R)	✓		
LEO GIACOMETTO (R)	✓		
BUDD GOULD (R)	✓		
AL MEYERS (R)	✓		
JOHN COBB (R)	✓		
ED GRADY (R)	✓		
PAUL RAPP-SVRCEK (D)	✓		
VERNON KELLER (R)	✓		
RALPH EUDAILY (R)	✓		
TOM BULGER (D)	✓		
JOAN MILES (D)	✓		
FRITZ DAILY (D)	✓		
TOM HANNAH (R)	✓		
BILL STRIZICH (D)	✓		
PAULA DARKO (D)	✓		
KELLY ADDY (D)	✓		
DAVE BROWN (D)	✓		
EARL LORY (R)	✓		

CS-30

EXHIBIT A
DATE 1-28-87
HB # 316

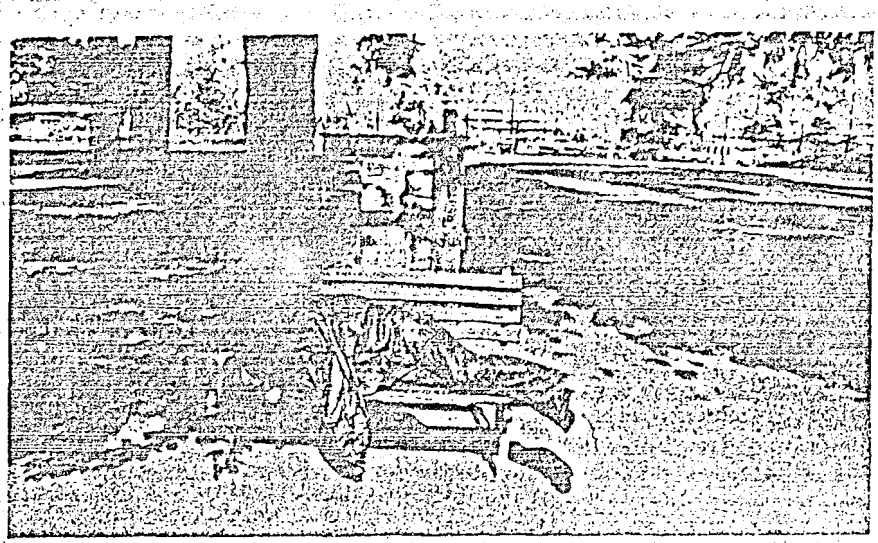
The homeless—Who's to blame?

by Kevin Osbourn

They can be found in virtually every American city, living on park benches, street corners, or in public shelters. They survive on society's castoffs, the clothes, shoes, and blankets no one else wants. They subsist on food they find in garbage cans and on the kindness of strangers.

They are America's homeless. Some—no one knows how many—are also America's mentally disabled.

Many of those who number among the homeless and mentally ill are a product of a social reform known as deinstitutionalization, a movement to release many chronic mental patients from state-run asylums and return them to productive lives in the community, reducing residential populations at state and county mental hospitals.



Approximately one-third of the nation's homeless are mentally ill.

The grim reality of deinstitutionalization is that many of the 450,000 patients released since 1955 have discovered a new imprisonment outside institution walls.

An untold toll

Determining how many homeless people are former mental patients living on the streets of America is no easy task. Ironicall the visible homeless are often st tistically invisible since they fr quently do not interact with re ord-keeping public agencies.

Precise figures are simply u available, but media reports ar recent surveys have estimated th approximately one-third of the n tion's homeless are mentally i However, the total figure for hom less people, which varies fro 350,000 to 3 million, is itself t subject of considerable debate.

According to the National Ins tute of Mental Health, 2.4 milli Americans should be classified chronically mentally ill and a proximately 1.5 million of the now live in the community. Th includes those who live in halfw houses, with their families or themselves in rooming houses a cheap hotels, those who have be referred for short-term stays in t psychiatric wards of local h pitals, and those who live on t streets.

Any one of these 1.5 million p tients may be homeless at one ti or another because the life of t chronic disease schizophren tends to be cyclical.

Civil rights versus public protection

For many of the homeless a mentally ill, there is a familiar p tern. Though the person has a h tory of mental trouble, whi sometimes includes a propens toward violent behavior, he or s is likely to be returned to the co munity after an admission t mental ward. The full weight the court system stands behi such decisions.

For the past decade, the cou have consistently held that no may arbitrarily abridge a ment ill person's right to freedom. result is that long-term invol

Exhibit

tary commitment has been abolished in most states for all but the most dangerous mental patients, and even short-term commitment can be difficult to attain. In most cases, common legal standards dictate that a patient must be a danger to himself or to others, which frequently means that a patient must commit some overt act of violence before the courts will intervene. In some cases, these rigid legal provisions fail to protect both the patient and the public.

For example, in the wake of the Statue of Liberty celebration in New York City over the weekend of July 4, a homeless Cuban refugee went on a sword-wielding rampage, killed two people, and wounded nine others. Reported to the police by homeless shelter attendants only days before the attack, the assailant was overheard saying that God had told him to kill. He was subsequently treated at an area hospital and released when he promised to seek help at an outpatient clinic.

In one California incident, long-term commitment was sought for a male patient in 1982, but, on the recommendation of state mental-health officials, a California court turned down the commitment petition. After deteriorating mentally, the patient's brother took him to the hospital where he received medication and was released. Later, he stabbed a 76-year-old woman to death.

The law also inhibits psychiatric intervention at many levels. There is widespread recognition of a patient's right to refuse medication. According to the American Psychiatric Association, half the states have such laws. And the strong tradition of advocacy for the mentally ill sometimes means attorneys will seek release of a client even if that decision hinders treatment.

The challenge governments face

Authorities are struggling to cope with the thousands of former mental patients who are homeless. In New York City, the challenge is to keep the homeless from freezing to death during the cold months. City Hall has advised the police that state law allows them to round up anyone who appears to be mentally ill and refuses shelter, and transport that person to a hospital for observation when the temperature goes below 32 degrees.

In response, the New York Civil Liberties Union formed its own "freeze patrol" to advise the homeless of their rights.

For the past decade, the courts have consistently held that no one may arbitrarily abridge a mentally ill person's right to freedom.

In Wisconsin efforts are underway to adopt new language which would allow involuntary commitment for the "obviously mentally ill." Others want to use the wording of "gravely impaired" to replace current legal standards for institutionalization.

But mental health practitioners and advocates perceive the problem as the result of an inadequate commitment of funds to community mental health, not legislative limitations.

Some programs are making a difference. In Chicago "The Bridge" is a community-based program that enables mentally ill men and women to lead near-normal lives outside institutions. The Bridge adopts people only after repeated admissions to mental wards. Nearly all receive federal disability checks.

To keep Bridge participants out of psychiatric wards, staffers go where the patients live. Social workers help the patients manage their Social Security and welfare checks and assist in buying clothes and food. In addition, the program helps participants cope with bureaucratic red tape.

Some federal funding for homeless former mental patients is now available through the Department of Housing and Urban Development, which has joined with private interests to improve housing and other services. The program, sponsored by the Robert Wood Johnson Foundation, will provide $28 million to eight of the nation's largest cities. Those cities will be eligible for HUD rent subsidies of up to $75 million over 15 years.

Up for public debate

Many social critics have expressed outrage at the number of mentally handicapped people living on the streets of a country as prosperous as the United States.

Some argue that the situation would be eased by changes in the law which would make involuntary institutionalization less difficult. But civil libertarians and advocates of community mental health care shudder at the possibility of returning to the nightmares of early mental health institutions, which were infamous for horrible living conditions and indefinite, sometimes inexplicable periods of incarceration. That fear still figures strongly in the current debate on how to deal with the problem.

Virtually everyone, however, agrees that deinstitutionalization has failed. It was a movement for which success was totally dependent upon alternatives in the community.

Without adequate community resources, enhanced support where it is needed, thousands of the mentally disabled will continue to number among America's homeless.

Mr. Osbourn is an information specialist with The Council of State Governments in Lexington, Kentucky.

MONTANA COUNCIL OF MENTAL HEALTH CENTERS

512 Logan
Helena, Mt. 59601
(406) 442-7808

B
1-28-87
#31-6

MONTANA MENTAL HEALTH CENTERS

REGION I
EASTERN MONTANA COMMUNITY MENTAL HEALTH CENTER
1819 Main Street
Miles City, Montana 59301
(232-0234)

REGION II
GOLDEN TRIANGLE COMMUNITY MENTAL HEALTH CENTER
Holiday Village Shopping Center
P.O. Box 3048
Great Falls, Montana 59403
(761-2100)

REGION III
MENTAL HEALTH CENTER
1245 North 29th Street
Billings, Montana 59101
(252-2882)

REGION IV
MENTAL HEALTH SERVICES, INC.
512 Logan
Helena, Montana 59601
(442-0310)

REGION V
WESTERN MONTANA COMMUNITY MENTAL HEALTH CENTER
Fort Missoula T-12
Missoula, Montana 59801
(728-6870)

FACT SHEET - PROPOSED COMMITMENT LAW

I. Why is there a need for a new type of involuntary commitment?

Under the current law a mentally ill person must be a clear and imminent danger to themselves or others in order to be involuntarily committed for treatment. The law requires that the mentally ill individual must have committed a recent and overt action to be classed as seriously mentally ill and to be committed for treatment.

A mentally ill person, who needs treatment and is very sick and deteriorating, often does not meet the current legal definition to be committed for treatment. For instance, a suicidal person who is under voluntary outpatient treatment for clinical depression may not meet the current definition to be committed unless they have done a recent and overt act.

The same could be true for a client in a day treatment program who suddenly stops taking care of themselves including eating. The client can even be hearing voices telling him (her) to do violent acts. Even though the person is obviously deteriorating and requires treatment, there is nothing that can be done until the individual commits some overt act.

II. What is the proposed law change?

An additional definition, mentally ill, would be added to the current commitment law. The court could commit a "mentally ill" person to only a community facility for a very limited time with the intention of getting the person stabilized and able to function in the community.

In order to be committed to a community facility under this additional definition, the "mentally ill" person would have to meet all the following criteria:

The person would have be suffering from a mental disorder which:

(1) has resulted in behavior that creates serious difficulty in protecting the person's life or health even with available assistance from family, friends, or others;

(2) is treatable, with a reasonable prospect of success and consistent with the least restrictive course of treatment, at or through the community facility to which the person is to be committed;

When all else is lost, the future still remains.—Bovee

(3) has deprived the person of the capacity to make an informed decision concerning treatment;

(4) has resulted in the person's refusing or being unable to consent to voluntary admission for treatment; and

(5) will, if untreated, predictably result in further serious deterioration in the mental condition of the person or poses significant risk of the person's becoming seriously mentally ill. Predictability may be established by the patient's medical history.

III. What are the safeguards in the proposal?

1. The commitment procedure requires a court hearing in which the person will be represented by an attorney.

2. The court must hold an initial hearing on the petition for commitment within 5 days.

3. The court must appoint a professional to evaluate the person who is alleged to be "mentally ill".

4. The person alleged to be "mentally ill" can also receive an additional evaluation by a professional person of his (her) choice.

5. The person may not be detained until after a hearing is held, a determination is made, and a court order is issued committing the person for treatment.

6. The person who is alleged to be "mentally ill" can demand a jury be impaneled to hear the case.

7. The person has the right to know in advance of the hearing the names of the witnesses who will testify.

8. To be committed the person must meet all of the criteria to be adjudicated as being "mentally ill." (See item II above for a list of the criteria.)

9. In order to require treatment which includes medication the court must make a separate finding and make a separate order for medication. However, the court may not order the use of physical force to administer medication.

11. The person can only be committed to a community facility for a 30 day period. There can be only one extension of the 30 day period for an additional 30 days.

12. The person declared to be "mentally ill" retains other safeguards such as the right to appeal the court decision.

v2:comfs86.hb

WITNESS STATEMENT

NAME Cliff Murphy BILL NO. 316

ADDRESS 1301 Rimrock Rd. Blgs. MT 59102 DATE 1/28/86

WHOM DO YOU REPRESENT? Mental Health Assoc. of MT

SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

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EXHIBIT 30

VISITORS' REGISTER

Judiciary COMMITTEE

BILL NO. HB-316 DATE Jan. 28, 1987

SPONSOR

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Donald L. Harr	3010 Wendimere Lane Billings, Montana	✓	
GLENN BIRGENHEIER	#1 PRINCE of WALES Bldg.	✓	
Jim Robischon	Mont. Life Coalition	✓	
Gerald Rothmeyer	Mid-Mont/324 Sanders Helena	✓	
Clifford M. Hamilton	Bldg. Mgr - M.H.A.M.	✓	
Nancy Adams	Montana Hospital 422 N. Main, Hdn.	✓	
Jacque Thiles	" "	✓	
Lee Kennedy	" "	✓	
Jeanne Porter	1425 Wynne Helena	✓	
Diana Smith		✓	
John McCrea		✓	
[illegible]	Helena	✓	
Philip Powers		✓	
STEVE WILLIAMSON	HELENA MENTAL HEALTH CENTERS	X	
RICHARD EMERY	MENTAL HEALTH CENTER	✓	
Florence Foster	Helena	✓	
Glen Sanford	M. C.	✓	
Lorraine T. Gant	Montana Alliance for the Mentally Ill	X	
Kelly Monk	Board of Visitors	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Judiciary) COMMITTEE

BILL NO. HB 316 DATE 1/28/87

SPONSOR Addy

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Jay McGrath	Mental Health Assn MT	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

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MINUTES OF THE MEETING
JUDICIARY COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

February 19, 1987

The meeting of the Judiciary Committee was called to order by Chairman Earl Lory on February 19, 1987, at 7:00 a.m. in Room 312 D of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Eudaily who was excused.

EXECUTIVE SESSION:

ACTION ON HOUSE BILL NO. 316:

Rep. Gould moved that HB 316 DO PASS. He moved that a sunset be put on the bill and that a report be presented to the next Legislature. Question was called on the amendment to provide a sunset for the involuntary commitment statute. A voice vote was taken and the motion CARRIED unanimously. Rep. Gould moved that HB 316 DO PASS AS AMENDED. Mr. MacMaster stated that an extension of authority needs to be put on the bill. He pointed out that this is needed because 53-21-106 grants rulemaking authority and Section 102 is amended so the authority needs to be extended to Section 102 as amended. Rep. Gould moved the amendment. Question was called and a voice vote was taken. The motion CARRIED 13-2 with Reps. Hannah and Daily dissenting. Rep. Addy stated that the fiscal note is incorrect with regard to the definition of "mentally ill". He moved to amend page 5, lines 10-15, striking the words "no person". Question was called and a voice vote was taken. The motion CARRIED unanimously. (See Amendments Attached). Rep. Gould moved DO PASS AS AMENDED. Question was called and voice vote was taken. The motion CARRIED unanimously. HB 316 DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO. 284:

Rep. Darko moved that HB 284 DO PASS. She stated that HB 283 without HB 284 is nothing more than mere language. She moved amendments that ask for the penalties to be softened down to the minimum amount because we have to keep aggravated visitation interference as a felony in order to extradite people from another state. Question was called and voice vote was taken. The motion CARRIED unanimously. (See Amendments Attached). Rep. Darko moved that HB 284 DO PASS AS AMENDED. Rep. Addy moved to amend HB 284 on page 2, line 4 inserting "without the written consent of the custodial

DAILY ROLL CALL

JUDICIARY COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Feb 19, 1987

NAME	PRESENT	ABSENT	EXCUSED
JOHN MERCER (R)	✓		
LEO GIACOMETTO (R)	✓		
BUDD GOULD (R)	✓		
AL MEYERS (R)	✓		
JOHN COBB (R)	✓		
ED GRADY (R)	✓		
PAUL RAPP-SVRCEK (D)	✓		
VERNON KELLER (R)	✓		
RALPH EUDAILY (R)			✓
TOM BULGER (D)	✓		
JOAN MILES (D)	✓		
FRITZ DAILY (D)	✓		
TOM HANNAH (R)	✓		
BILL STRIZICH (D)	✓		
PAULA DARKO (D)	✓		
KELLY ADDY (D)	✓		
DAVE BROWN (D)	✓		
EARL LORY (R)	✓		

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STANDING COMMITTEE REPORT

FEBRUARY 19, 19 87

Mr. Speaker: We, the committee on JUDICIARY

report HOUSE BILL NO. ~~XXX~~ 316

☒ do pass ☐ be concurred in ☒ as amended
☐ do not pass ☐ be not concurred in ☐ statement of intent attached

Chairman

1. Title, line 6.
Strike: "AND"

2. Title, line 9.
Following: "MCA"
Insert: "; PROVIDING FOR A REPORT TO THE LEGISLATURE; AND INCLUDING A SUNSET PROVISION"

3. Page 5, lines 10 through 15.
Strike: "No person" on line 10 through "part." on line 15

4. Page 9, line 20.
Following: "53-21-121(1)(b)."
Insert: "

(6) No person may be involuntarily committed to a mental health facility or detained for evaluation and treatment because he is an epileptic, mentally deficient, mentally retarded, senile, or suffering from a mental disorder unless the condition causes him to be seriously mentally ill within the meaning of this part."

5. Page 26.
Following: line 1
Insert: "NEW SECTION. Section 16. Report to legislature. The mental disabilities board of visitors shall report to the 51st legislature on the effects of this act, including the effects on the treatment and rights of the mentally ill and the seriously mentally ill and the procedures established by this act, and shall include in the report any recommendations it may have.

NEW SECTION. Section 17. Extension of authority. Any existing authority of the department of institutions or the mental disabilities board of visitors to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 18. Termination. This act terminates July 1, 1989."

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CHAIRMAN--REP. GENE DONALDSON
SECRETARY-DENISE THOMPSON COMMITTEE--(H) APPROPRIATIONS
NORMAL SCHEDULE==> SITE: ROOM 104 DAYS: MON THRU FRI TIME: 8:00 A.M.

* BILL NO **		DATE / LATEST ACTION	
HB 275	A	04/23 (H) SIGNED BY GOVERNOR	
		SPON-RAPP-SVRCEK, PAUL	TITLE-APPROPRIATION FOR AGRICULTURAL LOAN LINKED DEPOSIT PROGRAM
HB 277		04/24 (H) TRANSMITTED TO GOVERNOR	
		SPON-CONNELLY, MARY ELLEN	TITLE-IMPOSING A DRIVER'S LICENSE REINSTATEMENT FEE TO FUND COUNTY DUI PROGRAMS
HB 291		03/28 (H) TABLED IN COMMITTEE	(H) RULES
		SPON-PECK, RAY	TITLE-REQUIRE $15 SURCHARGE FOR VIOLATION OF FUEL CONSERVATION SPEED LIMIT
HB 309		07/01 (H) CHAPTER NUMBER	
		SPON-QUILICI, JOE	TITLE-GENERALLY REVISING THE CRIME VICTIMS COMPENSATION ACT
HB 316		10/01 (H) CHAPTER NUMBER	EFFECTIVE THROUGH 07/01/89
		SPON-ADDY, KELLY	TITLE-PROVIDING FOR INVOLUNTARY COMMITMENT AND TREATMENT IN LOCAL COMMUNITY
HB 357		03/28 (S) ADVERSE COM RPT ADOPTED	(S) FINANCE & CLAIMS AS AMENDED
		SPON-BARDANOUVE, FRANCIS	TITLE-REQUIRING STATE AGENCY TO MAKE EXPENDITURES ACCORDING TO OPERATING BUDGET
HB 357		03/28 (S) ADVERSE COM RPT ADOPTED	(S) FINANCE & CLAIMS AS AMENDED
		SPON-BARDANOUVE, FRANCIS	TITLE-REQUIRING STATE AGENCY TO MAKE EXPENDITURES ACCORDING TO OPERATING BUDGET
HB 372	R	05/01 (H) CHAPTER NUMBER	
		SPON-MILLER, RON	TITLE-INCREASE FEES COLLECTED BY INSURANCE COMMISSIONER
HB 373		04/17 (H) CHAPTER NUMBER	
		SPON-DARKO, PAULA	TITLE-CLAIM LOAD TO DETERMINE STAFFING FOR WORKERS' COMPENSATION DIVISION
HB 376		03/21 (H) TABLED IN COMMITTEE	(H) APPROPRIATIONS
		SPON-JENKINS, LOREN	TITLE-MAINTENANCE OF PAVED ROADS BETWEEN COUNTY SEATS BY HIGHWAY DEPARTMENT
HB 382	A	03/26 (H) BILL KILLED	
		SPON-CONNELLY, MARY ELLEN	TITLE-CREATING EDUCATION BUILDING AND INSURANCE ACCOUNT
HB 385		10/01 (H) CHAPTER NUMBER	
		SPON-KADAS, MIKE	TITLE-REQUIRING MAIL REREGISTRATION OF LIGHT VEHICLES TO BE ALLOWED
HB 391		02/25 (H) CHAPTER NUMBER	
		SPON-THOFT, BOB	TITLE-ALLOW MONTANA HISTORICAL SOCIETY TO EXPEND DEFERRED SUBSCRIPTION INCOME
HB 392	A	03/05 (H) TABLED IN COMMITTEE	(H) APPROPRIATIONS
		SPON-MENAHAN, RED	TITLE-APPROPRIATION TO ESTABLISH/OPERATE VETERANS' NURSING HOME IN GALEN
HB 434	A	04/14 (H) SIGNED BY GOVERNOR	
		SPON-DONALDSON, GENE	TITLE-SUPPLEMENTAL APPROP. TO VARIOUS STATE AGENCIES FOR CURRENT FISCAL YEAR
HB 434	A	04/14 (H) SIGNED BY GOVERNOR	
		SPON-DONALDSON, GENE	TITLE-SUPPLEMENTAL APPROP. TO VARIOUS STATE AGENCIES FOR CURRENT FISCAL YEAR
HB 436	R	04/27 (H) CHAPTER NUMBER	
		SPON-RAMIREZ, JACK	TITLE-REVALUE PROPERTY ANNUALLY FROM ON-SITE APPRAISAL OF 20% OF TAXABLE PROPERTY
HB 460		04/24 (H) TRANSMITTED TO GOVERNOR	
		SPON-KEENAN, NANCY	TITLE-PERMANENTLY INCREASE MARRIAGE DISSOLUTION FEE; PROVIDE FOR FEE DISPOSITION
HB 461	R	05/01 (H) CHAPTER NUMBER	
		SPON-CORNE, DICK	TITLE-REVISE APIARY LAW
HB 463		03/20 (S) TABLED IN COMMITTEE	(S) FISH & GAME
		SPON-COBB, JOHN	TITLE-MANAGEMENT OF SUN RIVER GAME PRESERVE AND OTHER WILDLIFE MANAGEMENT AREAS
HB 472		03/16 (H) TABLED IN COMMITTEE	(H) APPROPRIATIONS
		SPON-DARKO, PAULA	TITLE-REQUIRE MEDIATION BY CRT. COMMISSIONER IN ACTION FOR DISSOLUTION, SEPARATION
HB 492		04/07 (H) CHAPTER NUMBER	01/01/88 EFFECTIVE DATE
		SPON-MILES, JOAN	TITLE-RAISING CERTAIN FEES REGARDING MOTOR VEHICLE TITLES
HB 523	A	10/01 (H) CHAPTER NUMBER	
		SPON-PAVLOVICH, BOB	TITLE-CHECK-OFF ON STATE TAX RETURN TO FUND STATE VETERANS' CEMETERY
HB 538	A	04/10 (S) ADVERSE COM RPT ADOPTED	(S) FINANCE & CLAIMS
		SPON-WINSLOW, CAL	TITLE-REORGANIZATION OF DELIVERY OF SERVICES BY STATE HUMAN SERVICE AGENCIES
HB 551	A	03/07 (H) TABLED IN COMMITTEE	(H) APPROPRIATIONS
		SPON-SANDS, JACK	TITLE-APPROPRIATES EXXON OVERCHARGE FUNDS FOR LOW-INCOME HOME WEATHERIZATION
HB 573		03/27 (S) ADVERSE COM RPT ADOPTED	(S) FINANCE & CLAIMS
		SPON-WINSLOW, CAL	TITLE-BALANCED BUDGET STATUTES
HB 578	A	03/04 (H) TABLED IN COMMITTEE	(H) APPROPRIATIONS
		SPON-COHEN, BEN	TITLE-FUNDS TO THE PSC TO EMPLOY A RAILROAD SAFETY TRACK INSPECTOR
HB 581		07/01 (H) CHAPTER NUMBER	
		SPON-MCCORMICK, MAC	TITLE-REVISING MONTHLY INCOME STANDARD FOR GENERAL ASSISTANCE RECIPIENTS

CHAIRMAN--REP. GENE DONALDSON
SECRETARY-DENISE THOMPSON
NORMAL SCHEDULE==> SITE: ROOM 104 DAYS: MON THRU FRI TIME: 8:00 A.M.

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
HB0221	2/13	3/06		TABLED		
GILBERT, BOB			TRANSFER GAS TAX ADMINISTRATION FROM DEPT OF REVENUE TO DEPT OF HIGHWAYS			
HB0232	2/10	2/12		DO PASS		
THOMAS, FRED			INCREASE FEE FOR REVIVAL OF CORPORATION AFTER SUSPENSION OR FORFEITURE			
HB0233	1/15	1/21		DO PASS		
BARDANOUVE, FRANCIS			ESTABLISH STATE COMPENSATION PLANS/BENEFIT LEVELS AND 1988-89 PAY SCHEDULES			
HB0243	1/16	3/04		DO PASS		
HARPER, HAL			STATUTORY APPROPRIATION OF PART OF LICENSE FEES FOR LOCAL HEALTH INSPECTIONS			
HB0248	1/16	1/27		DO PASS		
SIMON, BRUCE			RECOVERY OF STATEWIDE CENTRALIZED SERVICE COSTS			
HB0259	1/31	3/18		DO PASS		
WINSLOW, CAL			REIMBURSE STATE EMPLOYEES FOR ANY TAXES ON IN-STATE LODGING			
HB0275	1/19	1/29		PASS AS AMENDED		
RAPP-SVRCEK, PAUL			APPROPRIATION FOR AGRICULTURAL LOAN LINKED DEPOSIT PROGRAM			
HB0277	2/02	2/18		PASS AS AMENDED		
CONNELLY, MARY ELLEN			IMPOSING A DRIVER'S LICENSE REINSTATEMENT FEE TO FUND COUNTY DUI PROGRAMS			
HB0291	2/23	3/07			RULES	
PECK, RAY			REQUIRE $15 SURCHARGE FOR VIOLATION OF FUEL CONSERVATION SPEED LIMIT			
HB0309	2/06	2/18		DO PASS		
QUILICI, JOE			GENERALLY REVISING THE CRIME VICTIMS COMPENSATION ACT			
HB0316	2/21	3/04		DO PASS		
ADDY, KELLY			PROVIDING FOR INVOLUNTARY COMMITMENT AND TREATMENT IN LOCAL COMMUNITY			

MINUTES OF THE MEETING
APPROPRIATIONS COMMITTEE
50TH LEGISLATIVE SESSION

The meeting of the Appropriations Committee was called to order by Chairman Rep. Gene Donaldson on March 4, 1987, at 1:00 p.m. in Room 104 of the State Capitol.

ROLL CALL: All members were present at the meeting except Reps. Winslow, Iverson, and Spaeth who were excused and Reps. Nathe and Switzer who were also excused but arrived late. Also present were Judy Rippingale, LFA and Denise Thompson, Secretary.

HB 660: (38:A:0.45)

Rep. Peck presented amendments to the committee on HB 660 (Exhibit 1).

EXECUTIVE ACTION:

(38:A:7.12) Rep. Thoft moved the Peck amendments be adopted. Rep. Devlin called the question. The motion CARRIED unanimously.

Action on the bill as amended was postponed.

(The recorder was temporarily unplugged.)

HB 578: Rep. Swift moved to TABLE HB 578 by Rep. Cohen for PSC-Safety Inspector, which was previously tabled in subcommittee on February 18, 1987. The motion CARRIED.

HB 29:

Rep. Swift, Chairman of the Natural Resources Subcommittee stated the subcommittee passed the bill out with a do pass recommendation. The fiscal note is not needed as there is no expenditure for fiscal 1989.

Rep. Bardanouve, sponsor of the bill stated the bill would consolidate all of the land into one department. There are currently some lands in the State Lands Department, some in Fish, Wildlife, and Parks, and a few in the Highway Department. He said the easements will remain with Fish, Wildlife and Parks. The highway right-of-way will remain with the Highway Department, but it would coordinate all other lands into one central agency. The bill had no opposition in the subcommittee.

EXECUTIVE ACTION:

Rep. Swift moved HB 29 DO PASS. Rep. Peck called the question. The motion CARRIED unanimously.

HB 259: It was decided the hearing on HB 259 would be postponed until sometime after another bill which is in taxation is heard.

(38:A:14.50) HB 316: Rep. Bradley gave the committee a brief summary on the bill saying the Human Services Subcommittee heard the bill earlier and voted a do pass unanimously in that subcommittee. It had strong supporters from the Mental Health Group. The bill sets up a process for involuntary mental illness assistance. The fiscal impact was based on 20 individuals who would be pulled into mental health centers or community systems with an anticipated number of 5 days of treatment. That conclusion would be the fiscal impact of approximately $38,000 each year.

Rep. Menahan spoke in support of the bill stating it is necessary to take care of these people and help them.

Rep. Bradley remarked it changes the definition of mentally ill by taking someone who is not necessarily potentially dangerous and helping the family get them the aid they need.

EXECUTIVE ACTION: (38:A:24.50)

Rep. Menahan moved to DO PASS HB 316. Rep. Quilici called the question. The motion carried unanimously.

HB 760 and HB 777:

Rep. Connelly moved to DO PASS HB 760. Rep. Bradley stated this is the technical bill that provides the authority for the Board of Examiners to issue bonds for the clean up of Hazardous Wastes and it is tied to HB 777 which provides for the RIT interest income for federal matching in the cleanup sights the match being a 9-1 federal match for cleanup or litigation.

Rep. Donaldson asked that the bills be referred to Rep. Thoft for his committee to look at them a determine the RIT funding levels.

Rep. Connelly withdrew her motion and the bills were held until Rep. Thoft's committee, Long Range Planning, had examined them.

DAILY ROLL CALL

APPROPRIATIONS COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3/4/87

NAME	PRESENT	ABSENT	EXCUSED
DONALDSON, GENE Chairman	✓		
THOFT, REP. BOB Vice Chair	✓		
WINSLOW, REP. CAL			
BARDANOUVE, FRANCIS	✓		
BRADLEY, DOROTHY	✓		
CONNELLY, MARY ELLEN	✓		
DEVLIN, GERRY	✓		
IVERSON, DENNIS			
MANUEL, REX	✓		
MENAHAN, RED	✓		
MENKE, LARRY	✓		
MILLER, RON	✓		
NATHE, DENNIS	✓	late	
PECK, RAY	✓		
POULSEN, HAROLD	✓		
QUILICI, JOE	✓		
REHBERG, DENNIS	✓		
SPAETH, GARY			✓
SWIFT, BERNIE	✓		
SWITZER, DEAN	✓	late	✓

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CHAIRMAN--SEN. DOROTHY ECK
SECRETARY-ELLEN NEHRING
NORMAL SCHEDULE==> SITE: ROOM 410 DAYS: M-W-F TIME: 1:00 P.M.

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES---	COMMITTEE ACTION---	REREFERRED TO COMM---	DATE OUT-
HB0051	1/21	2/02		CONCUR		2/2/87
PECK, RAY			MAKING ORAL INTERVIEWS OF DENTISTRY LICENSE APPLICANTS DISCRETIONARY			
HB0082	1/22				JUDICIARY	
BROWN, JAN			RIGHTS OF DOR AND RECIPIENTS OF PUBLIC ASSISTANCE AS TO ASSIGNED SUPPORT			
HB0088	1/21	2/02		CONCUR AS AMENDED		2/11/87
MANUEL, REX			AUTHORIZING RESERVE FUNDS FOR HOSPITAL DISTRICTS			
HB0114	2/02	2/06		CONCUR		2/9/87
ADDY, KELLY			LIMITING COUNTY REPRESENTATION ON REGIONAL MENTAL HEALTH BOARDS			
HB0116	1/26	2/02		CONCUR		2/2/87
BROWN, JAN			ELIMINATING THE REQUIREMENT THAT DHES OPERATE A HEALTH INFORMATION CENTER			
HB0126	1/27	2/09		CONCUR AS AMENDED		2/11/87
HARPER, HAL			OLDER MONTANANS ACT			
HB0196	1/30	3/09		CONCUR		3/9/87
MILES, JOAN			EXTENDING JURISDICTION OF MEDICAL-LEGAL PANEL TO DENTISTS			
HB0200	2/02	3/25		CONCUR		3/25/87
MILES, JOAN			CLARIFYING DUTIES OF SRS REGARDING CHILD REHABILITATION			
HB0316	3/10	3/20		CONCUR		3/20/87
ADDY, KELLY			PROVIDING FOR INVOLUNTARY COMMITMENT AND TREATMENT IN LOCAL COMMUNITY			
HB0327	2/21	3/23		CONCUR AS AMENDED		3/25/87
BULGER, TOM			SUDDEN INFANT DEATH SYNDROME INVESTIGATION AND AUTOPSY REQUIRED			
HB0364	2/17	3/09		CONCUR AS AMENDED		3/20/87
BRADLEY, DOROTHY			MERGING BOARD OF DENTURITRY WITH BOARD OF DENTISTRY			

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

March 20, 1987

The meeting of the Senate Public Health, Welfare and Safety Committee was called to order by Chairman Dorothy Eck on March 20, 1987, in Room 410 of the State Capitol.

ROLL CALL: All members of the committee were present.

ACTION ON HOUSE BILL NO. 637: Sen. Himsl moved that H.B. 637 BE CONCURRED IN.
Sen. Vaughn: My constituents are very concerned about getting into the constitution again.
Karen Renne: Welfare benefits are a benefit and not a right; and the state has to show a compelling interest to deny the benefit. SRS is trying to submit different approaches that the Court will accept.

Sen. Williams: Costs have escalated drastically since 1972 in welfare. No one has decided on how to control costs.
Karen Renne: There have been no attempts to limit welfare until 1985.

Sen. Meyer called for the question; the vote was 6-4 that H.B. 637 BE CONCURRED IN. Senators voting yes were Williams, Meyer, Rassmussen, McLane, Himsl, and Hager. Senators voting no were Eck, Norman, Vaughn, and Jacobson. Sen. Williams will carry the bill.

RECONSIDERATION OF HOUSE BILL NO. 364: Sen. Jacobson moved to reconsider committee action on H.B. 364, because she thought that one of the sets of amendments was workable, but it could create real difficulties for the merged board. The amendment pertained to the voting of board members on matters relating to denturity and matters relating to dentistry. Most of the time it will be difficult to separate issues that only dentists or denturists deal with, so that amendment could create unnecessary problems for the board.

Sen. Williams: Would Tom Ryan like to speak on this issue?
Tom Ryan, MSS: We liked the amendment as it originally passed the committee, having the amended board.

Sen. Jacobson: I would like to move that the amendment on conduct of business be striken. A roll call vote was taken with five senators voting for and five against. Those voting for the motion were Eck, Vaughn, Rassmussen, Jacobson, and McLane; those voting against were Norman, Williams, Meyer, Himsl, and Hager.

Sen. Himsl: Paragraph Two on the last page of the bill contains an unusual statement.
Roger Tippy: Subsection Two is unconditional guarantee drafted in the initiative.
Sen. Jacobson: The Auditor's office missed some of the statutes when they drafted the bill, so these amendments make the bill conform with the state law.

Sen. Rassmussen: How does this new amendment differ from the old one?
Sen. Jacobson: What the new amendment does is to say that dentists can't vote on matters of licensing or revoking licenses of denturists and vice versa. But on all other matters they will vote as a full board.

PROPONENTS OF H.B. 316: Steve Waldron, Montana Mental Health Association, described the kinds of people the bill is intended to help and the safeguards that the bill carries for the patient. Several groups have spent over four years achieving the balance of this bill and he urges passage of it. Exhibit # 5.

James L. Schwind, Helena, testified that mentally ill people do not get due process when they are arrested for their actions caused by illness and given criminal charges. This bill allows for diversity in treatment for a mentally ill person and protects their rights, as well.

Nancy Adams, Mental Health, worked with the committee on the bill and feels that it is a much-needed and long-overdue law.

Dr. Don Harr, Billings psychiatrist, stated the need for this bill is evident to those working in the field. Many people don't function because of a mental disorder, but they are not seriously ill enough to be incarcerated for a long period of time. Many also don't get care because they are not aware that it exists. This bill offers short-term care and treatment for these people, which is often enough for them to get stabilized again and to understand that they can be stabilized. When these people are not treated and "go too far", they often feel too guilty to receive treatment later on.

Glen Burgenheier, Manic-depressive, stated that his family could have been better treated, if they had had this kind of temporary care available. His sister committed suicide because there was no temporary treatment for her. Every one needs to know that this help is available for them or for family members.

Joy McGrath, Mental Health Association, stated that she has worked on the bill closely and supports it.

Suzanne Todd, Montana Alliance for the Mentally Ill, stated that families need to be protected, too, and this bill offers that.

Jean Porter, MAMI, stated that this a humane, cost-effective way to care for patients who need quick stabilization and care.

Kelly Morse, Director, Board of Visitors, stated that she has also worked on the bill; the committee consisted of attorneys, professors, families, clients, and mental health professionals, and she urges support.

DISCUSSION OF H.B. 316: Sen. Eck: What does the bill do about the mentally ill who commit a crime and run afoul of the law?

Nick Rotering: A person may still be found guilty and the court will outline mental health counseling treatment with or without incarceration, or possibly probation.

Sen. Eck: Do we have a group home for such a person to stay in?
Nick Rotering: No.

Rep. Addy stated, in closing, that former Sen. Tom Towe had spent hundreds of hours also working on this bill and he expressed his thanks to him and the committee for their consideration.

ACTION ON H.B. 316: Sen. Hager moved that H.B. 316 BE CONCURRED IN. The vote in favor was unanimous. Sen. Hager will carry the bill.

ACTION ON H.B. 462: Karen Renne explained the amendment that she had drafted at the suggestion of Maggie Bullock of SRS. Sen. McLane moved that the amendment do pass. The DO PASS was unanimous. Sen. McLane moved that H.B. 462 BE CONCURRED IN AS AMENDED. The vote in favor was unanimous. Sen. McLane will carry the bill.

FURTHER CONSIDERATION OF H.B. 750: Sen. Eck opened the discussion by explaining the proposed amendment to the Hazardess Chemical Right-to-Know bill as to how the effective date will work for this act. There is no money from the government for the committee that the amendment asks for.

Sen. Himsl: Why does this deal with a distributor and not a retailer?
Sen. Eck: Since the state of Montana enacted this legislation in 1985, the Federal government has since more comprehensive statutes; the federal statutes cover the retail section, so the state does not need to. If the state dosen't do anything, then we maintain a system that duplicates what the federal regulations now require.

Karen Renne: The purpose of this bill is to substitute the now effective federal regulations for the state law. The amendments call for an effective date to be in compliance with the federal effective date and for the appointment of the emergency planning districts and commissions by the governor.

Sen. Norman: Should the records of information and inspection rest with the clerk and recorders offices or with the fire marshalls' offices? I've heard some controversy over this.

Sen. Eck: The firemen want the information, but they don't necessarily want people coming the the stations to obtain information; but the clerk and recorder offices are closed on weekends, when it could be necessary to get information.

Sen. Vaughn: To file the information with the clerk and recorder offices makes for a lot of unnecessary recording for the clerks, and not many people would think to look there.

Sen. Eck: Why don't the members of the committee talk to some of their local officials over the next couple of days, and we'll take executive action on this on Monday.

ACTION ON H.B. 416: Karen Renne presented the various sets of amendments for consideration by the commiteee. Three of them cover Page 9, Lines 16-17, which are not clear in their meaning.

Public Health, Welfare and Safety COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date 3-20-87

NAME	PRESENT	ABSENT	EXCUSED
Dorothy Eck	X		
Bill Norman	X		
Bob Williams	X		
Darryl Meyer	X		
Eleanor Vaughn	X		
Tom Rasmussen	X		
Judy Jacobson	X		
Harry H. "Doc" McLane	X		
Matt Himsl	X		
Tom Hager	X		

Each day attach to minutes.

STANDING COMMITTEE REPORT

MARCH 20 19 87

MR. PRESIDENT

We, your committee on SENATE PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration HOUSE BILL No. 316

THIRD reading copy (BLUE color)

PROVIDING FOR INVOLUNTARY COMMITMENT AND TREATMENT IN LOCAL COMMUNITY

ADDY (HACHER)

Respectfully report as follows: That HOUSE BILL No. 316

BE CONCURRED IN

DO PASS

~~DO NOT PASS~~

DOROTHY ECK
Chairman.

MONTANA COUNCIL OF MENTAL HEALTH CENTERS

MONTANA MENTAL HEALTH CENTERS

512 Logan
Helena, Mt. 59601
(406) 442-7808

SENATE HEALTH & WELFARE
EXHIBIT NO. 5
DATE 3-20-87
BILL NO 316

HB 316 - PROPOSED COMMITMENT LAW

REGION I
EASTERN MONTANA COMMUNITY MENTAL HEALTH CENTER
1819 Main Street
Miles City, Montana 59301
(232-0234)

REGION II
GOLDEN TRIANGLE COMMUNITY MENTAL HEALTH CENTER
Holiday Village Shopping Center
P.O. Box 3048
Great Falls, Montana 59403
(761-2100)

REGION III
MENTAL HEALTH CENTER
1245 North 29th Street
Billings, Montana 59101
(252-2882)

REGION IV
MENTAL HEALTH SERVICES, INC.
512 Logan
Helena, Montana 59601
(442-0310)

REGION V
WESTERN MONTANA COMMUNITY MENTAL HEALTH CENTER
Fort Missoula T-12
Missoula, Montana 59801
(728-6870)

I. WHY IS THERE A NEED FOR A NEW TYPE OF INVOLUNTARY COMMITMENT?

Under the current law a mentally ill person must be a clear and imminent danger to themselves or others in order to be involuntarily committed for treatment. The law requires that the mentally ill individual must have committed a recent and overt action to be classed as seriously mentally ill and to be committed for treatment.

A mentally ill person, who needs treatment and is very sick and deteriorating, often does not meet the current legal definition to be committed for treatment. For instance, a suicidal person who is under voluntary outpatient treatment for clinical depression may not meet the current definition to be committed unless they have done a recent and overt act.

The same could be true for a client in a day treatment program who suddenly stops taking care of themselves including eating. The client can even be hearing voices telling him (her) to do violent acts. Even though the person is obviously deteriorating and requires treatment, there is nothing that can be done until the individual commits some overt act.

II. WHAT IS THE PROPOSED LAW CHANGE?

An additional definition, mentally ill, would be added to the current commitment law. The court could commit a "mentally ill" person to only a community facility for a very limited time with the intention of getting the person stabilized and able to function in the community.

In order to be committed to a community facility under this additional definition, the "mentally ill" person would have to meet all the following criteria:

The person would have be suffering from a mental disorder which:

(1) has resulted in behavior that creates serious difficulty in protecting the person's life or health even with available assistance from family, friends, or others;

(2) is treatable, with a reasonable prospect of success and consistent with the least restrictive course of treatment, at or through the community facility to which the person is to be committed;

(3) has deprived the person of the capacity to make an informed decision concerning treatment;

(4) has resulted in the person's refusing or being unable to consent to voluntary admission for treatment; and

(5) will, if untreated, predictably result in further serious deterioration in the mental condition of the person or poses significant risk of the person's becoming seriously mentally ill. Predictability may be established by the patient's medical history.

III. WHAT ARE THE SAFEGUARDS IN THE PROPOSAL?

1. The commitment procedure requires a court hearing in which the person will be represented by an attorney.

2. The court must hold an initial hearing on the petition for commitment within 5 days.

3. The court must appoint a professional to evaluate the person who is alleged to be "mentally ill".

4. The person alleged to be "mentally ill" can also receive an additional evaluation by a professional person of his (her) choice.

5. The person may not be detained until after a hearing is held, a determination is made, and a court order is issued committing the person for treatment.

6. The person who is alleged to be "mentally ill" can demand a jury be impaneled to hear the case.

7. The person has the right to know in advance of the hearing the names of the witnesses who will testify.

8. To be committed the person must meet all of the criteria to be adjudicated as being "mentally ill." (See item II above for a list of the criteria.)

9. In order to require treatment which includes medication the court must make a separate finding and make a separate order for medication. However, the court may not order the use of physical force to administer medication.

11. The person can only be committed to a community facility for a 30 day period. There can be only one extension of the 30 day period for an additional 30 days.

12. The person declared to be "mentally ill" retains other safeguards such as the right to appeal the court decision.

v2:comfs86.hb

DATE 3-20-87

COMMITTEE ON Human Services & Aging

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppo
Tom Ryan	Senior Citizens	HB64	amend	
Lee Verhasselt	AARP	HB455	✓	
Denise Hamptom	AARP	HB455	X	
Maggie Bullock	SRS	HB462	X	
Barbara Booher	MNA	HB455	X	
Nancy Adam	Mental Health	HB316	X	
Don Harr	Reg. III Mental Health Center	HB316	X	
Glenn Bergenheier	Patient viewpoint	HB316		
Jane Campbell	Alliance for the Mentally Ill	HB316	✓	
Suzanne J. Saint	Alliance for the Mentally Ill	HB316	✓	
Bonnie Porter	Alliance for the Mentally	HB316		
Dick Hruska	Region II Mental Health Ctr	HB316	✓	
Jim Schwind	self	HB316	X	
Jay McGrath	Mental Health Assoc	316	X	
Bill Leary	MT. Hosp. Assn.	HB455	X	
Jim Smith	NAR	HB462	X	
Mick Robinson	Dept. of Inst.	HB462	X	

(Please leave prepared statement with Secretary)

HOUSE BILL NO. 316

INTRODUCED BY ADDY, HAGER, KEENAN, PISTORIA, MAZUREK, STRATFORD, HANSEN, LORY, BULGER

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR INVOLUNTARY COMMITMENT AND TREATMENT IN THE LOCAL COMMUNITY OF PERSONS WHO ARE MENTALLY ILL; AND AMENDING SECTIONS 53-21-102, 53-21-106, 53-21-115, 53-21-116, 53-21-120, 53-21-121 THROUGH 53-21-123, AND 53-21-126 THROUGH 53-21-128, MCA; PROVIDING FOR A REPORT TO THE LEGISLATURE; AND INCLUDING A SUNSET PROVISION."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-21-102, MCA, is amended to read:

"53-21-102. Definitions. As used in this part, the following definitions apply:

(1) "Board" or "mental disabilities board of visitors" means the mental disabilities board of visitors created by 2-15-211.

(2) "Court" means any district court of the state of Montana.

(3) "Department" means the department of institutions provided for in Title 2, chapter 15, part 23.

(4) "Emergency situation" means a situation in which any person is in imminent danger of death or serious bodily harm from the activity of a person who appears to be seriously mentally ill.

(5) "Friend of respondent" means any person willing and able to assist a mentally ill person, a person alleged to be mentally ill, a seriously mentally ill person, or a person alleged to be seriously mentally ill in dealing with legal proceedings, including consultation with legal counsel and others. The friend of respondent may be the next of kin, the person's conservator or legal guardian, if any, a representative of a charitable or religious organization, or any other person appointed by the court to perform the functions of a friend of respondent set out in this part. Only one person may at any one time be the friend of respondent within the meaning of this part. In appointing a friend of respondent, the court shall consider the preference of the respondent. The court may at any time, for good cause shown, change its designation of the friend of respondent.

~~(5)~~(6) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on an individual's cognitive or volitional functions.

~~(6)~~(7) "Mental health facility" or "facility" means a public hospital or a licensed private hospital which is equipped and staffed to provide treatment for persons with mental disorders or a community mental health center or any

mental health clinic or treatment center approved by the department. No correctional institution or facility or jail is a mental health facility within the meaning of this part.

(8) "Mentally ill" means suffering from a mental disorder which has not resulted in self-inflicted injury or injury to others or the imminent threat thereof but which:

(a) has resulted in behavior that creates serious difficulty in protecting the person's life or health even with the available assistance of family, friends, or others;

(b) is treatable, with a reasonable prospect of success and consistent with the least restrictive course of treatment as provided in 53-21-127(3), at or through the facility to which the person is to be committed;

(c) has deprived the person of the capacity to make an informed decision concerning treatment;

(d) has resulted in the person's refusing or being unable to consent to voluntary admission for treatment; and

(e) poses a significant risk of the person's becoming seriously mentally ill, within the meaning of this section, or will, if untreated, predictably result in further serious deterioration in the mental condition of the person. Predictability may be established by the patient's medical history.

~~(7)~~(9) "Next of kin" shall include but need not be limited to the spouse, parents, adult children, and adult

brothers and sisters of a person.

~~(8)~~(10) "Patient" means a person committed by the court for treatment for any period of time or who is voluntarily admitted for treatment for any period of time.

~~(9)~~(11) "Peace officer" means any sheriff, deputy sheriff, marshal, policeman, or other peace officer.

~~(10)~~(12) "Professional person" means:

(a) a medical doctor; or

(b) a person who has been certified, as provided for in 53-21-106, by the department.

~~(11)~~(13) "Reasonable medical certainty" means reasonable certainty as judged by the standards of a professional person.

~~(12)~~(14) "Respondent" means a person alleged in a petition filed pursuant to this part to be mentally ill or seriously mentally ill.

~~(13) "Friend of respondent" means any person willing and able to assist a seriously mentally ill person or person alleged to be seriously mentally ill in dealing with legal proceedings, including consultation with legal counsel and others. The friend of respondent may be the next of kin, the person's conservator or legal guardian, if any, representatives of a charitable or religious organization, or any other person appointed by the court to perform the functions of a friend of respondent set out in this part.~~

~~Only one person may at any one time be the friend of respondent within the meaning of this part. In appointing a friend of respondent, the court shall consider the preference of the respondent. The court may at any time, for good cause shown, change its designation of the friend of respondent.~~

~~(14)~~(15) "Seriously mentally ill" means suffering from a mental disorder which has resulted in self-inflicted injury or injury to others or the imminent threat thereof or which has deprived the person afflicted of the ability to protect his life or health. For this purpose, injury means physical injury. ~~No person may be involuntarily committed to a mental health facility or detained for evaluation and treatment because he is an epileptic, mentally deficient, mentally retarded, senile, or suffering from a mental disorder unless the condition causes him to be seriously mentally ill within the meaning of this part.~~ NO PERSON MAY BE INVOLUNTARILY COMMITTED TO A MENTAL HEALTH FACILITY OR DETAINED FOR EVALUATION AND TREATMENT BECAUSE HE IS AN EPILEPTIC OR IS MENTALLY DEFICIENT, MENTALLY RETARDED, SENILE, OR SUFFERING FROM A MENTAL DISORDER UNLESS THE CONDITION CAUSES HIM TO BE SERIOUSLY MENTALLY ILL WITHIN THE MEANING OF THIS PART.

~~(15)~~(16) "State hospital" means the Montana state hospital."

Section 2. Section 53-21-106, MCA, is amended to read:

"53-21-106. Certification of professional persons. (1) The department shall certify professional persons as defined in 53-21-102~~(10)(b)~~(12)(b) for the purpose of this part.

(2) The department, with reference to recognized national standards in the field of mental health, shall adopt standards and rules governing the certification of professional persons ~~as defined in 53-21-102(10)(b)~~.

(3) The rules for certification must address but are not limited to:

(a) the type of education that an individual has received, including degrees;

(b) the type of experience or training received by the individual;

(c) continuing education, training, instruction, and work experience necessary to maintain certification;

(d) an examination instrument to be used to determine an individual's proficiency and understanding of mental health laws, diagnosis, and treatment procedures;

(e) the procedure for categorical certification qualifying the level of professional authority and responsibility of an individual; and

(f) specific procedures for certification, recertification, and revocation of certification."

Section 3. Section 53-21-115, MCA, is amended to read:

"53-21-115. Procedural rights. In addition to any other rights which may be guaranteed by the constitution of the United States and of this state, by the laws of this state, or by this part, any person who is involuntarily detained or against whom a petition is filed pursuant to this part has the following rights:

(1) the right to notice reasonably in advance of any hearing or other court proceeding concerning him;

(2) the right to know, in advance of any hearing, the names and addresses of any witnesses who will testify in support of the petition;

~~(2)~~(3) the right in any hearing to be present, to offer evidence, and to present witnesses in any proceeding concerning him;

~~(3)~~(4) the right in any hearing to cross-examine witnesses;

~~(4)~~(5) the right to be represented by counsel;

~~(5)~~(6) the right to remain silent;

~~(6)~~(7) the right in any hearing to be proceeded against according to the rules of evidence applicable to civil matters generally;

~~(7)~~(8) the right to view and copy all petitions on file with the court concerning him;

~~(8)~~(9) the right to be examined by a professional person of his choice when such professional person is

willing and reasonably available;

~~(9)~~(10) the right to be dressed in his own clothes at any hearing held pursuant to this part; and

~~(10)~~(11) the right to refuse any but lifesaving medication for up to 24 hours prior to any hearing held pursuant to this part."

Section 4. Section 53-21-116, MCA, is amended to read:

"53-21-116. Right to be present at hearing or trial -- appointment of counsel. The person alleged to be mentally ill or seriously mentally ill has the right to be present at any hearing or trial. If he has no attorney, the judge shall appoint one to represent him at either the hearing or the trial, or both, who shall be compensated from the public funds of the county where the respondent resides."

Section 5. Section 53-21-120, MCA, is amended to read:

"53-21-120. Detention to be in least restrictive environment -- preference for mental health facility -- court relief -- prehearing detention of mentally ill person prohibited. (1) A person detained pursuant to this part shall be detained in the least restrictive environment required to protect the life and physical safety of the person detained or members of the public; in this respect, prevention of significant injury to property may be considered.

(2) Whenever possible, a person detained pursuant to

this part shall be detained in a mental health facility and in the county of residence. If the person detained demands a jury trial and trial cannot be held within 7 days, the individual may be sent to the state hospital until time of trial if arrangements can be made to return him to trial. Such trial must be held within 30 days. The county of residence shall pay the cost of travel and professional services associated with the trial. No person may be detained in any hospital or other medical facility which is not a mental health facility unless such hospital or facility has agreed in writing to admit the person.

(3) A person may be detained in a jail or other correctional facility only if no mental health facility is available or if the available mental health facilities are inadequate to protect the person detained and the public. As soon as a mental health facility becomes available or the situation has changed sufficiently that an available mental health facility is adequate for the protection of the person detained and the public, then the detained person shall be transferred from the jail or correctional facility to the mental health facility.

(4) A person detained prior to involuntary commitment may apply to the court for immediate relief with respect to the need for detention or the adequacy of the facility being utilized to detain.

(5) No detention may be ordered under this part for a person concerning whom a petition has been filed under 53-21-121(1)(b).

(6) NO PERSON MAY BE INVOLUNTARILY COMMITTED TO A MENTAL HEALTH FACILITY OR DETAINED FOR EVALUATION AND TREATMENT BECAUSE HE IS AN EPILEPTIC, MENTALLY DEFICIENT, MENTALLY RETARDED, SENILE, OR SUFFERING FROM A MENTAL DISORDER UNLESS THE CONDITION CAUSES HIM TO BE SERIOUSLY MENTALLY ILL WITHIN THE MEANING OF THIS PART."

Section 6. Section 53-21-121, MCA, is amended to read:

"53-21-121. Petition for commitment -- contents of -- notice of. (1) The county attorney, upon the written request of any person having direct knowledge of the facts, may file a petition with the court:

(a) alleging that there is a person within the county who is seriously mentally ill and requesting that the person be committed to a mental health facility for a period of no more than 3 months; or

(b) alleging that there is a person within the county who is mentally ill and requesting that the person be committed to a mental health facility for a period of no more than 30 days.

(2) The petition shall contain:

(a) the name and address of the person requesting the petition and his interest in the case;

(b) the name of the respondent and, if known, the address, age, sex, marital status, and occupation of the respondent;

(c) the purported facts supporting the allegation of mental illness;

(d) the name and address of every person known or believed to be legally responsible for the care, support, and maintenance of the person for whom evaluation is sought;

(e) the name and address of the person's next of kin to the extent known to the county attorney and the person requesting the petition;

(f) the name and address of any person whom the county attorney believes might be willing and able to be appointed as friend of respondent;

(g) the name, address, and telephone number of the attorney, if any, who has most recently represented the person for whom evaluation is sought; if there is no attorney, there shall be a statement as to whether to the best knowledge of the person requesting the petition the person for whom evaluation is sought is indigent and therefore unable to afford the services of an attorney; and

(h) a statement of the rights of the respondent which shall be in conspicuous print and identified by a suitable heading.

(3) Notice of the petition shall be hand-delivered to

the respondent and to his counsel on or before the initial appearance of the respondent before the judge or justice of the peace. Notice of the petition and the order setting the date and time of the hearing and the names of the respondent's counsel, professional person, and friend of respondent shall be hand-delivered or mailed to the person or persons legally responsible for care, support, and maintenance of the respondent, the next of kin identified in the petition, and any other person identified by the county attorney as a possible friend of respondent other than the one named as the friend of respondent. The notice may provide, other than as to the respondent and his counsel, that no further notice will be given unless written request is filed with the clerk of court."

Section 7. Section 53-21-122, MCA, is amended to read:

"53-21-122. Petition for commitment -- filing of -- initial hearing on. (1) The petition shall be filed with the clerk of court who shall immediately notify the judge.

(2) (a) If a judge is available, he shall consider the petition, and if he finds no probable cause, it shall be dismissed.

(b) (i) If the judge finds probable cause, counsel shall be immediately appointed for the respondent, and the respondent shall be brought forthwith before the court with his counsel. The respondent shall be advised of his

constitutional rights, his rights under this part, and the substantive effect of the petition. The respondent may at this appearance object to the finding of probable cause for filing the petition.

(ii) The judge shall:

(A) appoint a professional person; and

(B) appoint a friend of respondent; and

(C) set a date and time for the hearing on the petition, which may not exceed 5 days, including weekends and holidays, unless the fifth day falls upon a weekend or holiday and unless additional time is requested on behalf of the respondent.

(iii) The desires of the respondent shall be taken into consideration in the appointment of the friend of respondent and in the confirmation of the appointment of the attorney.

(3) If a judge is not available in the county, the clerk shall notify a resident judge by telephone and read the petition to him. If the judge finds no probable cause, the petition shall be dismissed. If the judge finds probable cause, he shall cause the clerk to issue an order appointing counsel and a professional person and setting a date and time for the hearing on the petition, which may not exceed 5 days, including weekends and holidays, unless the fifth day falls upon a weekend or holiday and unless additional time is requested on behalf of the respondent. The order shall

also direct that the respondent be brought forthwith before a justice of the peace with his counsel to be advised of his constitutional rights, his rights under this part, and the contents of the clerk's order, as well as to furnish him with a copy. The justice of the peace shall ascertain the desires of the respondent with respect to the appointment of his counsel, and this shall be immediately communicated to the resident judge. The resident judge may appoint other counsel, may confer with respondent's counsel and the county attorney in order to appoint a friend of respondent, and may do all things necessary through the clerk of court by telephone as if the resident judge were personally present."

Section 8. Section 53-21-123, MCA, is amended to read:

"53-21-123. Examination of respondent following initial hearing -- recommendation of professional person. (1) Following the initial hearing, whether before a judge or justice of the peace, the respondent shall be examined by the professional person without unreasonable delay. The examination may not exceed a period of 4 hours. The professional person shall immediately notify the county attorney of his findings in person or by phone and shall make a written report of his examination to the court, with copies to the respondent's attorney and the county attorney.

(2) The following action shall be taken based on the professional person's findings:

(a) If he recommends dismissal, he shall additionally notify counsel and the respondent, if he has been detained, shall be released and the petition dismissed. However, the county attorney may, upon good cause shown, request the court to order an additional, but no more than one, examination by a different professional person for a period of no more than 4 hours.

(b) If he finds that commitment proceedings should continue, the hearing shall be held as scheduled.

(3) The court may not order further evaluation pending the hearing unless sound medical reasons require additional time for a complete evaluation. Such reasons shall be set forth in the order, along with the amount of additional time needed."

Section 9. Section 53-21-126, MCA, is amended to read:

"53-21-126. Trial or hearing on petition. (1) The respondent shall be present unless his presence has been waived as provided in 53-21-119(2), and he shall be represented by counsel at all stages of the trial. The trial shall be limited to the determination of whether or not the respondent is mentally ill or seriously mentally ill within the meaning set forth in this part.

(2) The standard of proof in any hearing held pursuant to this section is proof beyond a reasonable doubt with respect to any physical facts or evidence and clear and

convincing evidence as to all other matters, except that mental disorders shall be evidenced to a reasonable medical certainty. Imminent threat of self-inflicted injury or injury to others shall be evidenced by overt acts, sufficiently recent in time as to be material and relevant as to the respondent's present condition.

(3) The professional person appointed by the court shall be present for the trial and subject to cross-examination. The trial shall be governed by the Montana Rules of Civil Procedure except that, if tried by a jury, at least two-thirds of the jurors must concur on a finding that the respondent is seriously mentally ill. The written report of the professional person that indicates the professional person's diagnosis may be attached to the petition, but any matter otherwise inadmissible, such as hearsay matter, is not admissible merely because it is contained in the report. The court may order the trial closed to the public for the protection of the respondent.

(4) The professional person may testify as to the ultimate issue of whether the respondent is mentally ill or seriously mentally ill. ~~This testimony is insufficient unless accompanied by evidence from the professional person or others that:~~

~~(a) the respondent is suffering from a mental disorder; and~~

~~(b)--the-mental-disorder-has-resulted-in-self-inflicted injury-or-injury-to-others-or-the-imminent-threat-thereof-or has--deprived-the-person-afflicted-of-the-ability-to-protect his-life-or-health.~~ Testimony from a professional person or others must be received on each element of the definition of mentally ill or seriously mentally ill as those terms are defined in 53-21-102.

(5) The court, upon the showing of good cause and when it is in the best interests of the respondent, may order a change of venue."

Section 10. Section 53-21-127, MCA, is amended to read:

"53-21-127. Posttrial disposition. (1) If, upon trial, it is determined that the respondent is not mentally ill or seriously mentally ill within the meaning of this part, he shall be discharged and the petition dismissed.

(2) (a) If it is determined in a proceeding under 53-21-121(1)(a) that the respondent is seriously mentally ill within the meaning of this part, the court shall hold a posttrial disposition hearing. The disposition hearing shall be held within 5 days (including Saturdays, Sundays, and holidays unless the fifth day falls on a Saturday, Sunday, or holiday), during which time the court may order further evaluation and treatment of the respondent. At the conclusion of the disposition hearing, the court shall:

(i) commit the respondent to a facility for a period of not more than 3 months;

(ii) order the respondent to be placed in the care and custody of his relative or guardian or some other appropriate place other than an institution;

(iii) order outpatient therapy; or

(iv) make some other appropriate order for treatment.

(b) No treatment ordered pursuant to this subsection may affect the respondent's custody for a period of more than 3 months.

(c) In determining which of the above alternatives to order, the court shall choose the least restrictive alternatives necessary to protect the respondent and the public and to permit effective treatment. The court shall consider and shall describe in its order what alternatives for treatment of the respondent are available, what alternatives were investigated, and why the investigated alternatives were not deemed suitable. The court shall enter into the record a detailed statement of the facts upon which it found the respondent to be seriously mentally ill.

(3) If it is determined in a proceeding under 53-21-121(1)(b) that the respondent is mentally ill within the meaning of this part, the court shall order that he receive treatment for a period of no more than 30 days. The court shall choose the least restrictive course of treatment

reasonably available to the respondent. The court must make a separate finding, setting forth the reason therefor if the order includes a requirement of inpatient treatment or involuntary medication. The court may not order inpatient treatment in the Montana state hospital at Warm Springs under this subsection (3). The respondent may not be required to pay for court-ordered treatment unless he is financially able.

(4) Before ordering any treatment for a respondent found to be mentally ill under subsection (3), the court shall make findings of fact that treatment appropriate to the needs of the respondent is available. The court shall also indicate on the order the name of the facility that is to be responsible for the management and supervision of the respondent's treatment. No person may use physical force to administer medication. A court may use any legal means to enforce an order to take medication, including immediate detention not to exceed 72 hours, until the mentally ill person can be returned to the court."

Section 11. Section 53-21-128, MCA, is amended to read:

"53-21-128. Petition for extension of commitment period. (1) To extend the 3-month period of detention provided for in 53-21-127(2), the procedure set forth in this subsection (1) must be followed:

(a) Not less than 2 calendar weeks prior to the end of the 3-month period ~~of detention provided for in 53-21-127(2)~~, the professional person in charge of the patient at the place of detention may petition the court for extension of the detention period. The petition shall be accompanied by a written report and evaluation of the patient's mental and physical condition. The report shall describe any tests and evaluation devices which have been employed in evaluating the patient, the course of treatment which has been undertaken for the patient, and the future course of treatment anticipated by the professional person.

(b) Upon the filing of the petition, the court shall give written notice of the filing of the petition to the patient, his next of kin, if reasonably available, the friend of respondent appointed by the court, and the patient's counsel. If any person so notified requests a hearing prior to the termination of the previous detention authority, the court shall immediately set a time and place for a hearing on a date not more than 10 days from the receipt of the request and notify the same people, including the professional person in charge of the patient. If a hearing is not requested, the court shall enter an order of commitment for a period not to exceed 6 months.

(c) Procedure on the petition for extension when a hearing has been requested shall be the same in all respects

as the procedure on the petition for the original 3-month commitment except the patient is not entitled to trial by jury. The hearing shall be held in the district court having jurisdiction over the facility in which the patient is detained unless otherwise ordered by the court. Court costs and witness fees, if any, shall be paid by the county that paid the same costs in the initial commitment proceedings.

(d) If upon the hearing the court finds the patient not seriously mentally ill within the meaning of this part, he shall be discharged and the petition dismissed. If the court finds that the patient continues to suffer from serious mental illness, the court shall order commitment, custody in relatives, outpatient therapy, or other order as set forth in 53-21-127(2) except that no order may affect his custody for more than 6 months. In its order, the court shall describe what alternatives for treatment of the patient are available, what alternatives were investigated, and why the investigated alternatives were not deemed suitable. The court shall not order continuation of an alternative which does not include a comprehensive, individualized plan of treatment for the patient. A court order for the continuation of an alternative shall include a specific finding that a comprehensive, individualized plan of treatment exists.

(2) To extend the period of treatment provided for in 53-21-127(3), the procedure set forth in this subsection (2) must be followed:

(a) Not less than 7 days prior to the end of the 30-day period of treatment ordered under 53-21-127(3), the professional person in charge of the respondent's care may petition the court for extension of the treatment period. The petition must be accompanied by a written report and evaluation of the respondent's mental and physical condition. The report shall describe any tests and evaluation devices which have been employed in evaluating the respondent, the course of treatment which has been undertaken for the respondent, and the future course of treatment anticipated by the professional person.

(b) Upon the filing of the petition, the court shall give written notice of the filing of the petition to the respondent, his next of kin, if reasonably available, the friend of respondent appointed by the court, if any, and the respondent's counsel. If any person so notified requests a hearing prior to the termination of the previous detention authority, the court shall immediately set a time and place for a hearing on a date not more than 5 days from the receipt of the request and notify the same people, including the professional person in charge of the respondent. If a hearing is not requested, the court shall enter an order of

treatment for a period not to exceed 30 days.

(c) Procedure on the petition for extension when a hearing has been requested shall be the same in all respects as the procedure on the petition under 53-21-121(1)(b) for the original treatment except that the respondent is not entitled to trial by jury. The hearing shall be held in the district court for the county in which the treatment is being supervised unless otherwise ordered by the court. Court costs and witness fees, if any, shall be paid by the county that paid the same costs in the initial proceedings.

(d) If upon the hearing the court finds the respondent not mentally ill within the meaning of this part, the petition shall be dismissed. If the court finds that the respondent continues to be mentally ill, the court shall order treatment for the respondent for a period not to exceed 30 days. In its order, the court shall describe what alternatives for treatment of the respondent are available, what alternatives were investigated, and why the investigated alternatives were not considered suitable. The court may not order continuation of an alternative which does not include a comprehensive, individualized plan of treatment for the respondent. A court order for the continuation of an alternative shall include a specific finding that a comprehensive, individualized plan of treatment exists.

~~(2)~~(3) Further extensions of the period of detention provided for in 53-21-127(2) may be obtained under the same procedure described in subsection (1) of this section except that the patient's custody may not be affected for more than 1 year without a renewal of the commitment under the procedures set forth in subsection (1) of this section, including a statement of the findings required by subsection (1).

(4) The period of treatment provided for in 53-21-127(3) may be extended only once under this section."

NEW SECTION. Section 12. Establishment of treatment plan for mentally ill person. (1) A person ordered to receive treatment under 53-21-127(3) must have an individualized treatment plan.

(2) The treatment plan must be developed by appropriate professional persons and must be implemented no later than 5 days after the treatment order has been made.

(3) The treatment plan must contain:

(a) a statement of the nature of the specific problems and specific needs of the patient;

(b) a statement of the least restrictive treatment conditions necessary to achieve the purposes of commitment;

(c) a description of intermediate and long-range treatment goals, with a projected timetable for their attainment;

(d) a statement and rationale for the plan of treatment for achieving these intermediate and long-range goals; and

(e) criteria for release to less restrictive treatment conditions and criteria for discharge.

(4) The treatment plan may include prescription by a physician of reasonable and appropriate medication that is consistent with accepted medical standards.

NEW SECTION. Section 13. Compliance with treatment plan. If the respondent fails to comply or clearly refuses to comply with all or part of the treatment plan, the professional person appointed under 53-21-122 shall make all reasonable efforts to solicit the respondent's compliance. Such effort must be documented and reported to the court with a recommendation to the court as to whether the respondent should:

(1) have his case dismissed; or

(2) be given a supplemental hearing.

NEW SECTION. Section 14. Supplemental hearing. (1) If the respondent requests a hearing to prove he has complied with the treatment plan as provided in [section 13], the hearing must be scheduled within 5 days. The respondent, his attorney, the friend of respondent, and the designated professional person must be notified at least 48 hours in advance.

(2) At the hearing, the court must determine whether the respondent has failed to comply with the treatment plan established pursuant to [section 12].

(3) (a) If the court determines that the respondent has failed or refused to comply with the treatment plan, it may order the respondent to comply with the treatment plan for the remainder of the 30-day period.

(b) If the respondent no longer meets the definition of mentally ill, the court shall discharge the respondent from the order and dismiss the case.

NEW SECTION. Section 15. Codification instruction. Sections 12 through 14 are intended to be codified as an integral part of Title 53, chapter 21, part 1, and the provisions of Title 53, chapter 21, part 1, apply to sections 12 through 14.

NEW SECTION. SECTION 16. REPORT TO LEGISLATURE. THE MENTAL DISABILITIES BOARD OF VISITORS SHALL REPORT TO THE 51ST LEGISLATURE ON THE EFFECTS OF THIS ACT, INCLUDING THE EFFECTS ON THE TREATMENT AND RIGHTS OF THE MENTALLY ILL AND THE SERIOUSLY MENTALLY ILL AND THE PROCEDURES ESTABLISHED BY THIS ACT, AND SHALL INCLUDE IN THE REPORT ANY RECOMMENDATIONS IT MAY HAVE.

NEW SECTION. SECTION 17. EXTENSION OF AUTHORITY. ANY EXISTING AUTHORITY OF THE DEPARTMENT OF INSTITUTIONS OR THE MENTAL DISABILITIES BOARD OF VISITORS TO MAKE RULES ON THE

SUBJECT OF THE PROVISIONS OF THIS ACT IS EXTENDED TO THE PROVISIONS OF THIS ACT.

NEW SECTION. SECTION 18. TERMINATION. THIS ACT TERMINATES JULY 1, 1989.

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